

Stipulated Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Annabelle I. Johnsen and Arthur J. Johnsen, Claimants v. Michael D. Montgomery and Merrill Lynch, Pierce, Fenner & Smith, Inc., Respondents

Case Number: 00-03411

Hearing Site: Seattle, Washington

Nature of the Dispute: Customers v. Member and Associated Person

REPRESENTATION OF PARTIES

For Claimants:

William R. Walton, Esq.
Attorney at Law
Tacoma, Washington

For Respondents:

Eric D. Lansverk, Esq.
Hillis Clark Martin & Peterson Law Offices
Seattle, Washington

CASE INFORMATION

Statement of Claim filed: August 3, 2000

Claimants' Uniform Submission Agreement signed: July 28, 2000

Joint Statement of Answer filed by Respondents: December 11, 2000

Respondent Merrill Lynch, Pierce, Fenner & Smith, Inc.'s Uniform Submission Agreement signed: December 7, 2000

Respondent Michael D. Montgomery's Uniform Submission Agreement signed: October 23, 2000

CASE SUMMARY

Claimants alleged unsuitability, violations of federal securities laws, common law fraud, misrepresentation, negligence, breach of fiduciary duty, breach of contract, and violation of Consumer Protection Act. Claimants' allegations involved common stocks, including Valassis Communication Inc., Santa Fe International Corp., Conti Financial Corp., General Cable Corp., Westfield American Inc., Quality Food Centers, Inc., JDN Realty Corp., Microsoft Corp., Nu Skin Asia Pacific, and Sungard Data Systems.

Respondents denied the allegations of wrongdoing set forth in Claimants' Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

Claimants requested compensatory damages in the amount of \$500,000.00, treble damages no greater than \$10,000.00, pre- and post-judgment interest, and costs, including attorney's fees.

Respondents requested dismissal of Claimants' Statement of Claim in its entirety, and costs, including attorney's fees.

OTHER ISSUES CONSIDERED AND DECIDED

On June 17, 2004, Claimants dismissed their claims against Respondents with prejudice.

The parties agreed that the Stipulated Award in this matter may be executed in counterpart copies or that a handwritten, signed Stipulated Award may be entered.

AWARD

After considering the pleadings and the Parties' request for this Stipulated Award, the Panel decided in full and final resolution of the issues submitted for determination as follows:

1. Claimants dismissed this matter with prejudice on June 17, 2004.
2. Claimants' claims are dismissed with prejudice.
3. All other relief requested and not expressly granted is denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Dispute Resolution received or will collect the non-refundable filing fees for each claim as follows:

Initial claim filing fee = \$ 375.00

Member Fees

Member fees are assessed to each member firm that is either a party in the matter or an employer of a respondent associated person at the time of the events that gave rise to the dispute, claim, or controversy. Accordingly, the member firm Merrill Lynch, Pierce, Fenner & Smith, Inc. is a party and the following fees are assessed:

Member Surcharge = \$ 2,000.00

Pre-Hearing Process Fee = \$ 600.00

Hearing Process Fee = \$ 3,500.00

Total Member Fees = \$ 6,100.00

Adjournment Fees

The following adjournment fees are assessed:

May 25-26, 2004, adjournment requested by Claimants = \$ 1,200.00

The Panel waived the adjournment fee.

Forum Fees and Assessments

The Panel assessed a forum fee for each pre-hearing conference or hearing session conducted. A pre-hearing conference and hearing session is any meeting between the parties and the Chair or the Parties and the Panel. The following fees are assessed:

1 Pre-hearing conference session with the Panel @ \$1,125.00/session = \$ 1,200.00

Pre-hearing conference: January 29, 2004 1 session

Total Forum Fees = \$ 1,200.00

1. The Panel assessed \$ 600.00 of the forum fees jointly and severally to Claimants.
2. The Panel assessed \$ 600.00 of the forum fees jointly and severally to Respondents.

Fee Summary

1. Claimants are charged with the following fees and costs:

Initial Filing Fee	= \$ 375.00
<u>Forum Fees</u>	= \$ 600.00
Total Fees	= \$ 975.00
<u>Less payments</u>	= \$ (1,750.00)
Refund Due Claimants	= \$ (775.00)

2. Respondent Merrill Lynch, Pierce, Fenner & Smith, Inc. is charged with the following fees and costs:

Member Fees	= \$ 6,100.00
<u>Less payments</u>	= \$ (4,850.00)
Balance Due NASD Dispute Resolution	= \$ 1,250.00

3. Respondents Merrill Lynch, Pierce, Fenner & Smith, Inc. and Michael D. Montgomery are charged jointly and severally with the following fees and costs:

Forum Fees	= \$ 600.00
<u>Less payments</u>	= \$ (0.00)
Balance Due NASD Dispute Resolution	= \$ 600.00

All balances are payable to NASD Dispute Resolution and are due upon the receipt of the Award pursuant to Rule 10330(g) of the Code.

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ARBITRATION PANEL

Dante Lee Montoya, CPA

-

Public Arbitrator, Presiding Chair

Ronald S. Mathew

-

Public Arbitrator

Joseph L. Mangan

-

Non-Public Arbitrator

Dante L. Montoya CPA
Dante Lee Montoya, CPA
Chair, Public Arbitrator

9/15/2004
Signature: Date

Ronald S. Mathew
Public Arbitrator

Signature: Date

Joseph L. Mangan
Non-Public Arbitrator

Signature: Date


9/21/04
Date of Service

ARBITRATION PANEL


<i>Dante Lee Montoya, CPA</i>	-	<i>Public Arbitrator, Presiding Chair</i>
<i>Ronald S. Matthew</i>	-	<i>Public Arbitrator</i>
<i>Joseph L. Mangan</i>	-	<i>Non-Public Arbitrator</i>

Dante Lee Montoya, CPA
Chair, Public Arbitrator

Signature Date



Ronald S. Matthew
Public Arbitrator



Signature Date

Joseph L. Mangan
Non-Public Arbitrator

Signature Date



Date of Service

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ARBITRATION PANEL

<i>Dante L. Montoya, CPA</i>	-	<i>Public Arbitrator, Presiding Chair</i>
<i>Ronald S. Matthew</i>	-	<i>Public Arbitrator</i>
<i>Joseph L. Mangan</i>	-	<i>Non-Public Arbitrator</i>

Dante L. Montoya, CPA
Chair, Public Arbitrator

Signature Date

Ronald S. Matthew
Public Arbitrator

Signature Date


Joseph L. Mangan
Non-Public Arbitrator

8-9-04
Signature Date

9/21/04
Date of Service