

**Stipulated Award**  
**NASD Dispute Resolution, Inc.**

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In the Matter of the Arbitration Between:

A. Michael Koss, Claimant v. Merrill Lynch, Pierce, Fenner & Smith, Inc. and Todd Jeffrey Kleinfeld, Respondents

Case Number: 00-03699

Hearing Site: Los Angeles, California

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**REPRESENTATION OF PARTIES**

For Claimant:

Ronald M. Katzman, Esq.  
Law Offices of  
Ronald M. Katzman  
Sherman Oaks, California

For Respondents:

Bryan I. Reyhani, Esq  
Merrill Lynch, Pierce, Fenner  
& Smith, Inc.  
New York, New York

**CASE INFORMATION**

Statement of Claim filed: July 28, 2000

Claimant's Uniform Submission Agreement signed: July 28, 2000

Statement of Answer filed by Respondents: December 18, 2000

Respondent Merrill Lynch's Uniform Submission Agreement signed: December 18, 2000

Respondent Kleinfeld's Uniform Submission Agreement signed: September 10, 2000

**CASE SUMMARY**

Claimant alleged unsuitability, breach of contract, breach of fiduciary duty, misrepresentation, omission, and unauthorized trading.

Respondents denied the allegations of wrongdoing set forth in the Claimant's Statement of Claim.

**RELIEF REQUESTED**

Claimants requested \$24,921.24, in compensatory damages, and sought an award of interest, attorney's fees, and costs.

Respondents requested dismissal of the Claimant's Statement of Claim in its entirety, and sought an award of costs.

### **OTHER ISSUES CONSIDERED AND DECIDED**

The parties agreed that a handwritten, signed Award may be entered.

### **AWARD**

After considering the pleadings, the Arbitrator decided in full and final resolution of the issues submitted for determination as follows:

- 1) Respondent Merrill Lynch, Pierce, Fenner and Smith, Inc. is liable to and shall pay Claimant \$13,000.00 in compensatory damages.
- 2) Each party shall bear its own costs, including attorney's fees.
- 3) The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Todd Jeffrey Kleinfeld's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 99-09, Respondent Todd Jeffrey Kleinfeld must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.
- 4) All other relief not expressly granted is denied.

### **FEES**

Pursuant to the Code, the following fees are assessed:

#### **Filing Fees**

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

Initial claim filing fee = \$ 125.00

#### **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 which 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:

<u>Member Surcharge</u>	= \$ 400.00
<b>Total Member Fees</b>	<b>= \$ 400.00</b>

#### **Forum Fees and Assessments**

The Arbitrator 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 Arbitrator. The following fees are assessed:

1 Pre-hearing conference session with a single arbitrator @ \$ 450.00/session	= \$ 450.00
Pre-hearing conference: February 1, 2001 1 session	
<b>Total Forum Fees</b>	<b>= \$ 450.00</b>

The Arbitrator assessed \$ 225.00 of the forum fees to Claimant.

The Arbitrator assessed \$ 225.00 of the forum fees jointly and severally to Respondents Merrill Lynch, Pierce, Fenner & Smith, Inc. and Todd Jeffrey Kleinfeld.

#### **Fee Summary**

Claimant A. Michael Koss is charged with the following fees and costs:

Initial Filing Fee	= \$ 125.00
Forum Fees and retained deposit per Rule 10332(f)	= \$ 450.00
Total Fees	= \$ 575.00
Less payments	= \$(1,200.00)
<b>Refund Due Claimant</b>	<b>= \$ (625.00)</b>

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

Member Fees	= \$ 400.00
Less payments	= \$(775.00)
<b>Refund Due Merrill Lynch</b>	<b>= \$(375.00)</b>

Respondents Merrill Lynch, Pierce, Fenner & Smith, Inc. and Todd Jeffrey Kleinfeld are charged

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jointly and severally with the following fees and costs:

Forum Fees	= \$ 225.00
<u>Less Payment by Merrill Lynch, Pierce, Fenner &amp; Smith, Inc.</u>	<u>= \$(225.00)</u>
<b>Balance Due NASD Dispute Resolution, Inc.</b>	<b>= \$ 0</b>

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

Parties' Signatures



A. Michael Koss  
Claimant

7-18-01

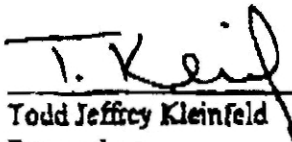
Signature Date



Bryan I. Reynolds, Esq. - Asst. Vice President/Counsel  
Merrill Lynch Pierce Fenner & Smith, Inc.  
Respondent

7/23/01

Signature Date



Todd Jeffrey Kleinfeld  
Respondent

7-23-01

Signature Date

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**ARBITRATION PANEL**

Walter S. Weiss, Esq.

Public Arbitrator

**Arbitrator's Signature**



Walter S. Weiss, Esq.  
Public Arbitrator

7/27/01

**Signature Date**

7/27/01

**Date of Service**