

Award
NASD Dispute Resolution, Inc.

In the Matter of the Arbitration Between: Merrill Lynch, Fenner & Smith, and Inc. v.
Mark Ratterree and Hill County Reality Company

Case Number: 00-04616

Hearing Site: Houston, Texas

REPRESENTATION OF PARTIES

Claimant Merrill Lynch, Pierce, Fenner & Smith, Inc., hereinafter referred to as
"Claimant": A. Michael Ferrill, Esq. of Cox & Smith, San Antonio, Texas.

Respondents Mark Ratterree and Hill County Reality hereinafter collectively referred to
as "Respondents", of Boerne, Texas represented themselves, but did not appear at
hearing.

CASE INFORMATION

Statement of Claim filed on or about: October 13, 2000.

Claimant signed the Uniform Submission Agreement: October 13, 2000.

Respondents did not file a Statement of Answer.

Respondents did not sign Uniform Submission Agreements.

CASE SUMMARY

Claimant asserted the following causes of action: In October and November 1998, due to an overprint error on another Merrill Lynch customer's deposit ticket, five deposits totaling \$227,309.09 were erroneously credited to Respondent's Account. Rather than notifying Merrill Lynch of this error, and knowing full well that he had never deposited such items to the Account, Respondents removed all of the funds by writing checks and issuing wire transfer instructions. Respondents took money that rightfully, in equity and good conscience belongs to Merrill Lynch, and are liable for damages caused by such action. Merrill Lynch brought claims for violation of the laws of the State of Texas and other applicable law; breach of contract; Unjust Enrichment; and conversion.

RELIEF REQUESTED

Claimant requested:

Compensatory Damages	\$ 227,309.00
Punitive Damages	\$ unspecified
Interest	\$ unspecified
Attorneys' Fees	\$ unspecified
Other Costs	\$ unspecified
Other Monetary/Non-Monetary Relief if any:	

OTHER ISSUES CONSIDERED AND DECIDED

Respondents did not file with NASD Dispute Resolution, Inc. a properly executed submission to arbitration but is required to submit to arbitration pursuant to the Code.

Upon review of the file and the representations made by/on behalf of the Claimant, the undersigned arbitrators determined that Respondents have been properly served with the Statement of Claim and received due notice of the hearing, and that arbitration of the matter would proceed without said Respondents present, in accordance with the NASD Code of Arbitration Procedure (the "Code").

AWARD

After considering the pleadings, the testimony and evidence presented at the hearing the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondents Mark Ratterree and Hill County Reality Company are jointly and severally liable for and shall pay to Claimant Merrill Lynch, Pierce, Fenner & Smith, Inc. the sum of \$227,309.90 as compensatory damages, plus 6% per annum pre judgment interest until judgment is paid in full.
2. Respondents Mark Ratterree and Hill County Reality are jointly and severally liable for and shall pay to Claimant Merrill Lynch, Pierce, Fenner & Smith, Inc. the sum of \$19,400.00 in attorneys' fees. In deciding to award attorneys' fees, the panel considered the arguments of the parties, as well as the pleadings filed on their behalf, and determined that the authority existed for an award of attorneys' fees to Merrill Lynch, Pierce, Fenner & Smith, Inc.;
3. Respondents Mark Ratterree and Hill County Reality are jointly and severally liable for and shall pay to Claimant Merrill Lynch, Pierce, Fenner & Smith, Inc. \$3,600.00 in costs;

4. All costs not specifically enumerated herein shall be borne by the individual parties; and
5. Any and all relief not specifically addressed, including punitive damages, is denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

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

Initial claim filing fee	= \$1,000.00
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Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute. In this matter, the member firm is the Claimant's firm.

Member surcharge	= \$ 1,500.00
Pre-hearing process fee	= \$ 600.00
Hearing process fee	= \$ 2,500.00

Forum Fees and Assessments

The panel has the authority to assess forum fees for each hearing session conducted. A hearing session is any meeting between the parties and the arbitrators, including a pre-hearing conference with the arbitrators, that lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) Pre-hearing session with the Panel	x \$1,125.00	= \$1,125.00
Pre-hearing conference:	April 23, 2001	1 session

One (1) Hearing sessions	x \$1,125.00	= \$1,125.00
Hearing Date(s):	August 22, 2001	1 session

Total Forum Fees	= \$2,200.50
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1. The panel has assessed \$ 2,200.50 of the forum fees to Mark Ratterree and Hill County Reality Company jointly and severally.

FEE SUMMARY

Claimant Merrill Lynch Pierce Fenner & Smith, Inc. is solely liable for:

Initial Filing Fee	= \$ 1,000.00
<u>Member Fees</u>	= \$ 4,600.00
Total Fees	= \$ 5,600.00
<u>Less payments</u>	= \$ 6,725.00
Refunded by NASD Dispute Resolution, Inc.	= \$ 1,125.00

Respondents Mark Ratterree and Hill County Reality are jointly and severally liable for:

Forum Fees	= \$ 2,200.50
Total Fees	= \$ 2,200.50
<u>Less payments</u>	= \$ 0
Balance Due NASD Dispute Resolution, Inc.	= \$ 2,200.50

All balances are due to NASD Dispute Resolution, Inc.

ARBITRATION PANEL

Thomas D. Nagel-Public Arbitrator, Presiding Chair
Martha Failing-Public Arbitrator
James M. Alexander-Non-Public Arbitrator

Concurring Arbitrators' Signatures

Thomas D. Nagel
Public Arbitrator, Presiding Chair

Signature Date

Martha Failing
Public Arbitrator

Signature Date

James Alexander
Non-Public Arbitrator

Signature Date

Date of Service (For NASD-Dispute Resolution office use only)

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James M. Alexander-Non-Public Arbitrator

Concurring Arbitrators' Signatures

Thomas D. Nagel
Public Arbitrator, Presiding Chair

Signature Date

Martha Failing
Public Arbitrator

Signature Date



James Alexander
Non-Public Arbitrator

9-18-01

Signature Date

Date of Service (For NASD-Dispute Resolution office use only)

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James M. Alexander-Non-Public Arbitrator

Concurring Arbitrators' Signatures

Thomas D. Nagel
Public Arbitrator, Presiding Chair

Martha Failing
Martha Failing
Public Arbitrator

Signature Date

Sept 24, 2001
Signature Date

James Alexander
Non-Public Arbitrator

Signature Date

Date of Service (For NASD Dispute Resolution office use only)

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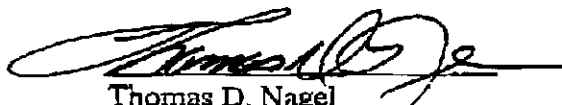
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Martha Failing-Public Arbitrator
James M. Alexander-Non-Public Arbitrator

Concurring Arbitrators' Signatures


Thomas D. Nagel
Public Arbitrator, Presiding Chair

9-24-01
Signature Date

Martha Failing
Public Arbitrator

Signature Date

James Alexander
Non-Public Arbitrator

Signature Date

Date of Service (For NASD-Dispute Resolution office use only)