

AWARD
NASD Dispute Resolution

In the Matter of the Arbitration Between

Name of Claimant

Sabih Kalidy

and

00-04683
Oklahoma City, Oklahoma

Name of Respondent

Merrill Lynch, Pierce, Fenner & Smith, Inc.

REPRESENTATION OF PARTIES

Sabih Kalidy, hereinafter referred to as ("**Claimant**") was represented by Jack L. Freeman, Esq. of the firm Jack L. Freeman & Associates, Edmond, Oklahoma.

Merrill Lynch, Pierce, Fenner & Smith, Inc., hereinafter referred to as ("**Respondent**") was represented by Bruce W. Day, Esq., of the firm Day, Edwards, Propester & Christensen, P.C., Oklahoma City, Oklahoma.

CASE INFORMATION

The Statement of Claim was filed on or about October 16, 2000. The Submission Agreement of Claimant Sabih Kalidy was signed on or about August 23, 2000.

The Statement of Answer was filed by Respondent Merrill Lynch, Pierce, Fenner & Smith, Inc. on or about January 29, 2001. The Submission Agreement of Respondent Merrill Lynch, Pierce, Fenner & Smith, Inc. was signed on or about January 29, 2001.

CASE SUMMARY

Claimant asserted the following causes of action: breach of contract, negligence, failure to supervise, breach of fiduciary duty and misrepresentations/non-disclosures. The causes of action relate to the order execution of the Appnet Incorporated stock. In the Statement of Claim, Claimant specifically alleged as follows:

Claimant made clear to Respondent that the reason he directed Respondent to obtain the date and time of the announcement of quarterly profits for Appnet Incorporated was to enable him to sell the stock before the announcement of earnings was made in order to maximize the profit from the sale of the stock.

Unless specifically admitted in its Answer, Respondent Merrill Lynch, Pierce, Fenner & Smith, Inc. denied the allegations made in the Statement of Claim and asserted the following defenses: Claimant failed to state a claim against Respondent upon which relief can be granted; Claimant is estopped by his conduct from asserting against Respondent any and all claims; Claimant, acting with full knowledge and notice of the facts, ratified, approved, accepted acquiesced and confirmed in all respects the acts complained of in the Statement of Claim; Respondent is not liable to Claimant in any amount, because at all times relevant herein, it acted in good faith and in a commercially reasonable manner with respect to Claimant's accounts; Claimant assumed the risks of the investments that he made through Respondent and through his unilateral decisions regarding when to purchase and whether to hold such securities; and transactions upon which Claimant bases his alleged claims against Respondent were conducted in accordance with all applicable Exchange rules and regulations.

RELIEF REQUESTED

Claimant requested an award in the amount of \$388,000.00 in actual damages, the fees and cost of this action, plus attorney's fees.

Respondents requested that the claims asserted against them be denied in its entirety and that they be awarded such other and further relief as is deemed just and proper.

OTHER ISSUES CONSIDERED & DECIDED

On September 6, 2002, the parties were notified that Arbitrator Roger Minney's classification had been changed from a Non-Public Arbitrator to a Public Arbitrator. The parties did not object to his continued service on the panel.

The parties have agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award may be entered. In either case, the parties have agreed to receive conformed copies of the award while the originals remain on file with the NASD Dispute Resolution (the "NASD").

AWARD

After considering the pleadings, the testimony, and the evidence presented at the hearing, if any, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. Claimant's claims, each and all, are denied and dismissed with prejudice.
2. That to the extent not specifically awarded or otherwise provided for above, all other claims and requests for relief by any party hereto are denied with prejudice.

3. Other than the Forum Fees noted below, the parties shall each bear all other costs and expenses incurred by them in connection with this proceeding, including but not limited to attorneys fees.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

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

Initial claim filing fee = \$300.00

Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm that employed the associated person at the time of the events giving rise to the dispute. In this matter, the member firm is Merrill Lynch, Pierce, Fenner & Smith, Inc.

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

Adjournment Fees

Adjournments requested during these proceedings:

October 3-4, 2002 Hearing Dates, adjournment requested by Sabih Kalidy
and Merrill Lynch, Pierce, Fenner & Smith Inc. (split equally to each party) = \$1,125.00

October 29-30, 2002 Hearing Dates, adjournment requested by Sabih Kalidy = \$1,500.00

Forum Fees and Assessments

The Arbitration Panel assesses 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:

Two [2] Pre-hearing sessions with Panel x \$1,125.00 = \$2,250.00
Pre-hearing conference: July 18, 2001 1 session

March 4, 2003	1 session	
Three [3] Hearing sessions x \$1,125.00		= \$3,375.00
Hearing Date: September 29, 2003	3 sessions	
Total Forum Fees		= \$5,625.00

The Arbitration Panel has assessed \$5,625.00 of the forum fees to Sabih Kalidy.

Fee Summary

Claimant, Sabih Kalidy, shall be and hereby is liable for:

Initial Filing Fee	= \$ 300.00
Adjournment Fees	= \$2,062.50
Forum Fees	= \$5,625.00
Total Fees	= \$7,987.50
Less payments	= \$1,425.00
Balance Due NASD Dispute Resolution	= \$6,562.50

Respondent, Merrill Lynch, Pierce, Fenner & Smith, Inc., shall be and hereby is liable for:

Member Fees	= \$ 4,600.00
Adjournment Fee	= \$ 562.50
Total Fees	= \$ 5,162.50
Less payments	\$4,200.00
Balance Due NASD Dispute Resolution	= \$ 962.50

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

ARBITRATION PANEL

Robert N. Naifeh, Esq. - Public Arbitrator, Presiding Chair
Roger D. Minney, CPA - Public Arbitrator
William Ragusin - Public Arbitrator

Concurring Arbitrators:

/s/ Robert N. Naifeh, Esq.
Robert N. Naifeh, Esq.
Public Arbitrator, Presiding Chair

10/14/03
Signature Date

NASD Dispute Resolution, Inc.
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/s/ Roger D. Minney, CPA
Roger D. Minney, CPA
Public Arbitrator

10/10/03

Signature Date

/s/ William Ragusin
William Ragusin
Public Arbitrator

10/13/03

Signature Date

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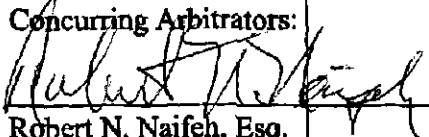
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