
Stipulated Award
NASD

In the Matter of the Arbitration Between:

Name of the Claimant
Douglas M. Schmidt

Case Number: 01-00301

Names of the Respondents
Nicholas S. Matulich and Merrill Lynch, Pierce,
Fenner & Smith, Inc.

Hearing Site: New Orleans, LA

REPRESENTATION OF PARTIES

For Douglas M. Schmidt, hereinafter referred to as "Claimant": George Denegre, Jr., Esq., Liskow & Lewis, New Orleans, LA.

For Respondents Nicholas S. Matulich ("Matulich") and Merrill Lynch, Pierce, Fenner & Smith, Inc. ("Merrill Lynch"), hereinafter collectively referred to as "Respondents": George C. Freeman, III, Esq., Stone, Pigman, Walther, Whittman & Hutchinson, LLP., New Orleans, LA.

CASE INFORMATION

Statement of Claim filed on or about: January 22, 2001.

Claimant signed the Uniform Submission Agreement on or about: January 17, 2001.

Statement of Answer filed by Respondents on or about: April 5, 2001.

Respondents did not file executed Uniform Submission Agreements.

CASE SUMMARY

Claimant asserted the following causes of action: breach of fiduciary duty; negligence; negligent misrepresentation; a violation of Louisiana Blue Sky Laws; failure to supervise; and vicarious liability. The causes of action relate to the depreciation of value, including, but not limited to, the following securities in Claimant's account: SDL Inc., RF Micro Devices, Inc., Emulex Corp., Exodus Communications, Inc., Broadvison, Inc., Harmonic, Inc., and GO2Net, Inc.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted various defenses.

RELIEF REQUESTED

Claimant requested compensatory damages of \$20,690,057, plus interest, attorney's fees, and other such relief deemed equitable.

Respondents requested that the Statement of Claim be dismissed with prejudice, and the costs be assessed to the Claimant.

OTHER ISSUES CONSIDERED AND DECIDED

Respondents did not file with NASD properly executed submissions to arbitration but are required to submit to arbitration pursuant to the NASD Code of Arbitration Procedure (the "Code") and, having answered the claim and appeared, is are bound by the determination of the undersigned arbitrators (the "Panel") on all issues submitted.

On or around March 6, 2002, the parties filed a Consent Order, which dismissed Claimant's claims asserted against Respondents, and requested the Panel order that all references to this proceeding be expunged from Respondent Matulich's Form U-4.

The parties have agreed that the Stipulated Award in this matter may be executed in counterpart copies.

AWARD

After considering the pleadings and the Consent Order, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Claimant dismisses all claims against Respondents, with prejudice.
2. The Panel recommends the expungement of all references to the above captioned arbitration from Respondent Matulich's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notices to Members 99-09 and 99-54, Respondent Matulich must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

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

Initial claim filing fee	= \$600.00
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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 that employed the associated person at the time of the events giving rise to the dispute. Accordingly, Respondent Merrill Lynch is assessed:

Member surcharge	= \$ 3,600.00
Pre-hearing process fee	= \$ 600.00
Hearing process fee	= \$ 5,000.00

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Adjournment Fees

Adjournment fees were not assessed in this matter.

Injunctive Relief Fees

Injunctive relief fees are assessed to each member or associated person who files for a temporary injunction in court. Parties in these cases are also assessed arbitrator travel expenses and costs when an arbitrator is required to travel outside his or her hearing location and additional arbitrator honoraria for the hearing for permanent injunction. These fees, except the injunctive relief surcharge, are assessed equally against each party unless otherwise directed by the panel.

Injunctive relief fees were not assessed in this matter.

Forum Fees and Assessments

The Panel has assessed forum fees for each session conducted. A 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 a single arbitrator @ \$450.00 = \$900.00

Pre-hearing conferences: August 20, 2001 1 session
January 14, 2002 1 session

Two (2) Pre-hearing sessions with Panel @ \$1200.00 = \$2400.00

Pre-hearing conferences: July 30, 2001 1 session
August 6, 2001 1 session

Total Forum Fees = \$3300.00

1. The Arbitrators has assessed \$1,650.00 of the forum fees to Claimant.
2. The Arbitrators has assessed \$1,650.00 of the forum fees jointly and severally to Respondents.

Administrative Costs

Administrative costs are expenses incurred due to a request by a party for special services beyond the normal administrative services. These include, but not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

No administrative costs were incurred in this matter.

Fee Summary

1. Claimant is solely liable for:

Initial Filing Fee	= \$ 600.00
Forum Fees	= \$ 1,650.00
Total Fees	= \$ 2,250.00
Less payments	= \$ 1,800.00
Balance Due NASD	= \$ 450.00

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2. Respondent Merrill Lynch is solely liable for:

<u>Member Fees</u>	= \$ 9,200.00
<u>Total Fees</u>	= \$ 9,200.00
<u>Less payments</u>	= \$ 9,200.00
<u>Balance Due NASD</u>	= \$ 0.00

3. Respondents are jointly and severally liable for:

<u>Forum Fees</u>	= \$ 1,650.00
<u>Total Fees</u>	= \$ 1,650.00
<u>Less payments</u>	= \$ 0.00
<u>Balance Due NASD</u>	= \$ 1,650.00

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

ARBITRATION PANEL

Thomas J. Fischer, Esq.	-	Public Arbitrator, Presiding Chairperson
A. Duncan McFarlane	-	Public Arbitrator
Arthur W. Pigott	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

/s/
Thomas J. Fischer, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

/s/
A. Duncan McFarlane
Public Arbitrator

Signature Date

/s/
Arthur W. Pigott
Non-Public Arbitrator

Signature Date

September 6, 2002
Date of Service (For NASD office use only)

NASD.

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Less payments	= \$ 9,200.00
Balance Due NASD	= \$ 0.00

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Thomas J. Fischer, Esq.

A. Duncan McFarlane

Arthur W. Piggot

Public Arbitrator, Presiding Chairperson

Public Arbitrator

Non-Public Arbitrator

Concurring Arbitrators' Signatures



Thomas J. Fischer, Esq.

Public Arbitrator, Presiding Chairperson

8/10/02

Signature Date

A. Duncan McFarlane

Public Arbitrator

Signature Date

Arthur W. Piggot

Non-Public Arbitrator

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A. Duncan McFarlane

Arthur W. Piggot

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Public Arbitrator, Presiding Chairperson

Public Arbitrator

Non-Public Arbitrator

Concurring Arbitrators' Signatures

Thomas J. Fischer, Esq.

Public Arbitrator, Presiding Chairperson



A. Duncan McFarlane

Public Arbitrator

Signature Date

8-12-02

Signature Date

Arthur W. Piggot

Non-Public Arbitrator

Signature Date

Date of Service (For NASD office use only)

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A. Duncan McFarlane	-	Public Arbitrator
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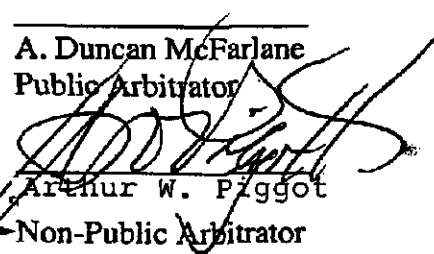
Concurring Arbitrators' Signatures

Thomas J. Fischer, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

A. Duncan McFarlane
Public Arbitrator

Signature Date



Arthur W. Piggot
Non-Public Arbitrator

08-12-02

Signature Date

Date of Service (For NASD office use only)