

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimants

Case Number: 01-00781

Leonid Shpector and Marina Shpector, JTWOS

Name of the Respondents

Hearing Site: Washington, D.C.

Merrill Lynch Pierce Fenner & Smith, Inc.,
George L. Balboa, Ray T. Moreau, and
Lee D. Weiss.

REPRESENTATION OF PARTIES

Claimants, Leonid Shpector ("L. Shpector") and Marina Shpector ("M. Shpector"), hereinafter collectively referred to as "Claimants" were represented by Patrick G. Merkle, Esq., Law Offices of Patrick G. Merkle, PLLC, Washington, D.C.

Respondents, Merrill Lynch Pierce Fenner & Smith, Inc. ("Merrill Lynch"), George L. Balboa ("Balboa"), Ray T. Moreau ("Moreau"), and Lee D. Weiss ("Weiss"), hereinafter collectively referred to as "Respondents" were initially represented by William J. Manning, Jr., Esq., Merrill Lynch Pierce Fenner & Smith, Inc., New York, New York. On or about June 27, 2002, Ira L. Oring, Fedder and Garten, PA, Baltimore, Maryland, entered an appearance for Respondents.

CASE INFORMATION

Statement of Claim filed on or about February 12, 2001.

Claimants signed the Uniform Submission Agreement on January 20, 2001

Statement of Answer filed by Respondents on or about April 16, 2001.

Respondent Merrill Lynch's Uniform Submission Agreement was executed by William J. Manning on April 16, 2001.

Respondent Babloa, Moreau and Weiss did not sign a Uniform Submission Agreement.

CASE SUMMARY

Claimants asserted the following causes of action: unauthorized trading; churning; undisclosed transaction; forced sales; and, arbitrary and capricious imposition of undisclosed fees. The causes of action relate to the alleged unauthorized purchase and sale of the following stocks and funds: Internet Infrastructure, Genentch Inc., Deutsche Telecom AG, Community Health Systems, and Semco Energy, Merrill Lynch Fundamental Growth B, Merrill Lynch Global Tech Fund Cl B, Mercury US Large Cap Cl B, and Mercury US Large Cl B.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted the following defenses: failure to state of claim upon which relief can be granted; Claimants directed, authorized, consented to, acquiesced in, and ratified all transactions; any losses were due to investment decisions made by Claimants and market conditions outside the control of Respondents; and, Respondents acted properly and in good faith with regard to Claimants' accounts.

RELIEF REQUESTED

Claimants in their Statement of Claims requested:

Compensatory Damages	\$126,747.00
Punitive Damages	\$100,000.00
Arbitration Costs	\$ 1,425.00
Attorneys' Fees	\$ 40,000.00
Other Costs	\$ 2,200.00

Respondents in their Statement of Answer requested that Claimants' claims for damages be denied in all respects, and that the cost of this action, including attorney's fees, be assessed against Claimants.

OTHER ISSUES CONSIDERED AND DECIDED

At the hearing on this matter, Claimants withdrew their claims against Respondents Balboa and Moreau, with prejudice to the refilling of same.

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. Respondent Merrill Lynch shall pay Claimants compensatory damages in the amount of \$20,894.00 for improperly closing the Claimants' account; no prejudgment interest is awarded on this amount;
2. Respondent Merrill Lynch shall pay Claimants \$300.00 as reimbursement of Initial Claim Filing Fee paid to NASD Dispute Resolution;
3. Claimants' claims against Respondent Weiss are denied in their entirety;
4. The parties shall bear their respective costs, including attorney's fees, except as Fees are specifically addressed below; and,
5. Any and all relief not specifically addressed herein, including punitive damages, is denied in its entirety.

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 persons at the time of the events giving rise to the dispute. Accordingly, Respondent Merrill Lynch is a party.

Member surcharge	= \$1,500.00
Pre-hearing process fee	= \$ 600.00
Hearing process fee	= \$2,500.00
<u>Total Member Fees</u>	<u>= \$4,600.00</u>

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:

One (1) Pre-hearing sessions with Panel @ \$1,125.00	= \$1,125.00
Pre-hearing conferences: May 28, 2002 1 session	
Four (4) Hearing sessions @ \$1,125.00	= \$4,500.00
Hearing Dates: August 27, 2002 2 sessions	
August 28, 2002 2 sessions	
<u>Total Forum Fees</u>	<u>= \$5,625.00</u>

1. The Panel has assessed \$5,625.00 of the forum fees to Respondent Merrill Lynch.

SEE SUMMARY

1. Claimants are assessed the following fees:

Initial Filing Fee	= \$ 300.00
Total Fees	= \$ 300.00
Less payments	= \$ 1,425.00
Refund Due Claimants from NASD Dispute Resolution	= \$ 1,125.00

2. Respondent Merrill Lynch is assessed the following fees:

Member Fees	= \$ 4,600.00
<u>Forum Fees</u>	<u>= \$ 5,625.00</u>
Total Fees	= \$ 10,225.00
<u>Less payments</u>	<u>= \$ 4,600.00</u>
Balance Due NASD Dispute Resolution	= \$ 5,625.00

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

ARBITRATION PANEL

Mary E. Beach, Esq.	-	Public Arbitrator, Presiding Chairperson
Samuel A. Alward	-	Public Arbitrator, Panelist
Charles P. King	-	Non-Public Arbitrator, Panelist

Concurring Arbitrators' Signatures

Mary E. Beach

Mary E. Beach, Esq.
Public Arbitrator, Presiding Chairperson

10/9/02

Signature Date

Samuel A. Alward
Public Arbitrator, Panelist

Signature Date

Charles P. King
Non-Public Arbitrator, Panelist

Signature Date


October 9, 2002


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

Concerning Arbitrators' Signatures

Mary E. Beach, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date


Samuel A. Alward
Public Arbitrator, Panelist



Signature Date

Charles P. King
Non-Public Arbitrator, Panelist

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