
Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimant

Cam Mai Goetz and Harold L. Goetz

Case Number: 01-00860

Name of the Respondent(s)

Merrill Lynch, Pierce, Fenner, & Smith Inc.
And Larry E. Barker

Hearing Site: Houston, Texas

REPRESENTATION OF PARTIES

Claimants, Cam Mai Goetz and Harold L. Goetz. Hereinafter collectively referred to as "Claimants":
Christopher J. Bebel of Shepherd, Smith & Bebel, located in Houston, Texas.

Respondents, Merrill Lynch, Pierce, Fenner & Smith, ("Merrill Lynch") and Larry E. Barker, hereinafter collectively referred to as "Respondents": Linda Broocks, Esq. and Judith A. Meyer, Esq., of Ogden, Gibson, White & Broocks, LLP, located in Houston, Texas.

CASE INFORMATION

Statement of Claim filed: February 9, 2001.

Claimant, signed the Uniform Submission Agreement: February 9, 2001.

Joint Statement of Answer filed by Respondents, on or about: March 2, 2002.

Respondent signed Merrill Lynch signed the Uniform Submission Agreement on April 11, 2001.

Respondent Larry E. Barker signed the Uniform Submission Agreement on May 4, 2001.

CASE SUMMARY

Claimants asserted the following causes of action: breach of contract, breach of warranties, promissory esstopel, violation of the Texas Deceptive Trade Practices Act, violation of the Texas Securities act, violation of the Texas Fraud Statute, violation of Section 10(b) and Rule 10b-5, unsuitability, misrepresentation, omissions, failure to supervise, unjust enrichment, breach of fiduciary duty; negligence, gross negligence, reckless disregard, infliction of mental anguish, and emotional distress. These causes of action relate to Mrs. Goetz' trading in her accounts at Merrill Lynch between January 2000 and February 2001.

Unless specifically admitted in its Answer, Respondent denied the allegations made in the Statement of Claim and asserted the following defenses: waiver, esstopel, equitable esstopel, ratification, failure to state a claim, good

faith, assumption of the risk, failure to mitigate, inapplicability of DTPA, and violation of the constitutions of the United States and Texas.

RELIEF REQUESTED

Claimant(s) requested:

Compensatory Damages	\$100,000.00
Punitive Damages	\$Unspecified
Interest	\$Unspecified
Attorneys' Fees	\$Unspecified
Other Costs	\$Unspecified
Other Monetary/Non-Monetary Relief if any	

Respondents requested that the claims against them be dismissed in their entirety.

AWARD

The parties have agreed to the following Stipulation and Order:

1. Claimants Harold L. Goetz and Cam Goetz claims against Merrill Lynch, Inc., and Larry Barker are dismissed with prejudice;
2. The Panel recommends the expungement of all reference to the above-captioned arbitration from Respondent Larry Barker'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 Larry Barker must obtain conformation from a court of competent jurisdiction before the CRD will execute the directive;
3. Any and all relief not specifically addressed herein, is denied;
4. All cost and attorneys' fees shall be borne by the parties who incurred them.

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 = \$375.00

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. Accordingly, Merrill Lynch is a party the Respondent's firm.

Member surcharge	= \$2,000.00
Pre-hearing process fee	= \$ 600.00
Hearing process fee	= \$3,500.00

Adornment Fees

Adjournments requested during these proceedings by Respondents:
February 22-February 28, 2002 = \$1200.00 Waived by the Panel.

Forum Fees and Assessments

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

Three (3) Pre-hearing sessions with the Panel arbitrator @ \$1200.00	= \$3600.00
Pre-hearing conferences:	
December 12, 2001 1 session	
August 28, 2001 1 session	
February 5, 2002 1 session	

Total Forum Fees	= \$3,600.00
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1. The Panel has assessed \$1,800.00 of the forum fees to Claimants Cam Mai Goetz and Harold L. Goetz jointly and severally.
2. The Panel has assessed \$1,800.00 of the forum fees to Merrill Lynch and Larry E. Barker jointly and severally.

Fee Summary

Claimants, Harold L. Goetz and Cam Goetz are jointly and severally liable for:

Initial Filing Fee	= \$ 375.00
<u>Forum Fees</u>	= \$ 1,800.00
Total Fees	= \$ 2,175.00
<u>Less payments</u>	= \$ 1,575.00
Balance Due NASD Dispute Resolution	= \$ 600.00

Respondent, Merrill Lynch is solely liable for:

Member Fees	= \$ 6,100.00
<u>Less payments</u>	= \$ 00
Balance Due NASD Dispute Resolution	= \$ 6,100.00

Respondents Merrill Lynch and Larry Baker are jointly and severally liable for:

Forum Fees	= \$1,800.00
<u>Less Payments</u>	= \$ 00
Balance Due NASD Dispute Resolution	= \$1,800.00

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

ARBITRATION PANEL

Donald E. Fisher, Jr., Esq. -Public Arbitrator, Presiding Chairperson
Steve R. Neuman-Public Arbitrator
James P. Kinkade-Non-Public Arbitrator

Concurring Arbitrators' Signatures

Donald E. Fisher, Jr., Esq
Public Arbitrator, Presiding Chairperson

Signature Date

Steve R. Neuman
Public Arbitrator

Signature Date

James P. Kinkade
Non-Public Arbitrator

Signature Date

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

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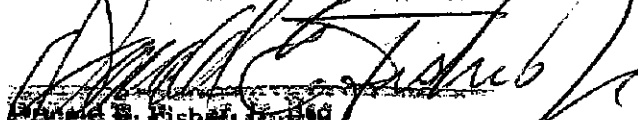
Forum Fees	= \$1,800.00
Less Payments	= \$ 00
Balance Due NASD Dispute Resolution	= \$1,800.00

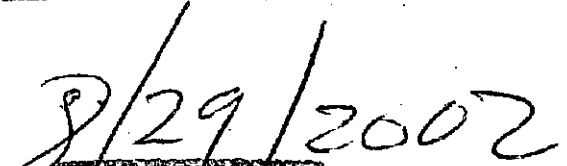
All balances are payable to NASD Dispute Resolution and are due upon receipt pursuant to Rule 10330(g) of the Code.

ARBITRATION PANEL

Donald E. Fisher, Jr., Esq. - Public Arbitrator, Presiding Chairperson
Steve R. Neuman - Public Arbitrator
James P. Kinkade - Non-Public Arbitrator

Concurring Arbitrators' Signatures


Donald E. Fisher, Jr., Esq.
Public Arbitrator, Presiding Chairperson


Signature Date

Steve R. Neuman
Public Arbitrator

Signature Date

James P. Kinkade
Non-Public Arbitrator

Signature Date

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

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NASD REGULATION

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4. Respondents Merrill Lynch and Larry Baker are jointly and severally liable for:

	= \$1,800.00
Forum Fees	= \$ 00
Less Payments	= \$1,800.00
Balance Due NASD Dispute Resolution	

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

ARBITRATION PANEL

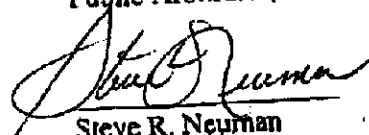
Donald E. Fisher, Jr., Esq.
Steve R. Neuman
James P. Kinkade

- Public, Presiding Chairperson
- Public Arbitrator
- Non-Public Arbitrator

Concurring Arbitrators' Signature(s)

Donald E. Fisher, Jr., Esq.
Public Arbitrator, Presiding Chairperson

Signature Date


Steve R. Neuman
Public Arbitrator

9.18.02

Signature Date

James P. Kinkade
Non-Public Arbitrator

Signature Date

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NASD REGULATION

005

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Forum Fees	= \$1,800.00
<u>Less Payments</u>	= \$ 00
Balance Due NASD Dispute Resolution	= \$1,800.00

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

ARBITRATION PANEL

Donald E. Fisher, Jr., Esq. -Public Arbitrator, Presiding Chairperson
Steve R. Neuman-Public Arbitrator
James P. Kinkade-Non-Public Arbitrator

Concurring Arbitrators' Signatures

Donald E. Fisher, Jr., Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

Steve R. Neuman
Public Arbitrator

Signature Date



James P. Kinkade
Non-Public Arbitrator

9-3-02

Signature Date

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