
Stipulated Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Names of the Claimants

Benjamin Rivas and Lazara Rivas, JTWROS
Benjamin Rivas and Jacquelyn Rivas, JTWROS
Benjamin Rivas and Benjamin Rivas, Jr., JTWROS

Case Number: 01-00985

Names of the Respondents

James S. Okun a/k/a Jimmy S. Okun
Merrill Lynch, Pierce, Fenner & Smith, Inc.

Hearing Site: Tampa, Florida

Nature of the Dispute: Customer vs. Member and Associated Person.

REPRESENTATION OF PARTIES

For Benjamin Rivas and Lazara Rivas, JTWROS, Benjamin Rivas and Jacquelyn Rivas, JTWROS and Benjamin Rivas and Benjamin Rivas, Jr., JTWROS, hereinafter collectively referred to as "Claimants": John P. Holsenback, Esq., Fuller Holsenback Bivins & Malloy, P.A., Tampa, Florida.

For James S. Okun a/k/a Jimmy S. Okun ("Okun") and Merrill Lynch, Pierce, Fenner & Smith, Inc., ("Merrill Lynch"), hereinafter collectively referred to as "Respondents": Jason S. Haselkorn, Esq. and Richard L. Martens, Esq., Boose Casey Ciklin Lubitz Martens McBane & O'Connell, West Palm Beach, Florida.

CASE INFORMATION

Statement of Claim filed on or about: February 28, 2001.

Claimants Benjamin Rivas and Lazara Rivas, JTWROS, signed the Uniform Submission Agreement: March 19, 2001.

Claimants Benjamin Rivas and Jacquelyn Rivas, JTWROS, signed the Uniform Submission Agreement: March 19, 2001.

Claimants Benjamin Rivas and Benjamin Rivas, Jr., JTWROS, signed the Uniform Submission Agreement: March 19, 2001.

Statement of Answer filed by Respondents on or about: April 18, 2001.

Respondent Okun signed the Uniform Submission Agreement: April 17, 2001.

Respondent Merrill Lynch signed the Uniform Submission Agreement: April 17, 2001.

CASE SUMMARY

Claimants asserted the following causes of action: 1) failure to supervise; 2) violation of Sections 8, 9, 10(b), 15 and 20 of the Securities Exchange Act of 1934; 3) violation of Florida Statutes Section 517.301 and 517.312;

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4) violation of NASD Rules of Conduct 2120, 2210, 2220, 2230, 2310, 2320, 2440, IM2440, 2510, 2860, 3010 and 3070; and; 5) breach of fiduciary duty. The causes of action relate to trading losses of various unspecified, speculative stocks in Claimant's account, including opportunity losses.

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

RELIEF REQUESTED

Claimants requested compensatory damages in the amount of \$1,000,000.00, including opportunity losses, interest, costs, forum fees, attorney's fees, punitive damages and such other relief as the Panel deemed just and reasonable.

Respondents requested that the Statement of Claim be dismissed in its entirety and an award of costs.

OTHER ISSUES CONSIDERED AND DECIDED

On or about November 26, 2003, the parties notified NASD Dispute Resolution that they had settled this matter and would be submitting a proposed Stipulated Award with request for expungement of the NASD Central Registration Depository (the "CRD") record of Respondent Okun.

On May 7, 2004, the parties submitted to NASD Dispute Resolution a proposed Stipulated Award with a request for expungement of the NASD CRD record of Respondent Okun.

On May 13, 2004, NASD Dispute Resolution staff notified the parties in this matter that Arbitrator Horton had passed away. The parties consented to have the Stipulated Award executed by the remaining arbitrators only.

The parties have agreed that the Stipulated Award in this matter may be entered in counterpart copies or that a signed handwritten Stipulated Award may be entered.

AWARD

After considering the pleadings and the proposed Stipulated Award with request for expungement, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

- 1) Claimants' withdrawal of their claims against Respondents, with prejudice, is accepted and Respondents are dismissed from this matter.
- 2) This dismissal shall be a bar to the bringing of any action based on or including the claims or counterclaims for which this action has been or could have been brought against Respondents by the Claimants or against the Claimants by the Respondents.
- 3) The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Okun's registration records maintained by the NASD CRD, with the understanding that pursuant to NASD

Notices to Members 99-09 and 99-54, Respondent Okun must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

4) Claimants and Respondents, as to each other, shall bear their respective costs and attorney's fees.

FEEES

Pursuant to the NASD Code of Arbitration Procedure (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
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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, Merrill Lynch is a party to this dispute and was a member of the NASD at the time the following fees were assessed:

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

Adjournment Fees

No requests for adjournments were filed in this matter for which fees were assessed.

Injunctive Relief Fees

No injunctive relief fees were incurred during this proceeding.

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:

Three (3) Pre-hearing sessions with a single arbitrator @ \$450.00	= \$1,350.00
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Pre-hearing conferences:	August 26, 2002	1 session
	September 23, 2002	1 session
	February 26, 2003	1 session

Four (4) Pre-hearing sessions with the Panel @ \$1,200.00	= \$4,800.00
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Pre-hearing conferences:	February 11, 2002	1 session
	March 15, 2002	1 session
	June 17, 2002	1 session
	November 25, 2002	1 session

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Total Forum Fees = \$6,150.00

The Panel has assessed \$3,075.00 of the forum fees to jointly and severally to Claimants.

The Panel has assessed \$3,075.00 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 during this proceeding.

Fee Summary

Claimants are jointly and severally liable for:

Initial Filing Fee	= \$ 375.00
Forum Fees	= \$ 3,075.00
Total Fees	= \$ 3,450.00
Less payments	= \$ 1,575.00
Balance Due NASD Dispute Resolution	= \$ 1,875.00

Respondent Merrill Lynch is solely liable for:

Member Fees	= \$ 6,100.00
Total Fees	= \$ 6,100.00
Less payments	= \$ 6,100.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondents are jointly and severally liable for:

Forum Fees	= \$3,075.00
Total Fees	= \$3,075.00
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$3,075.00

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

ARBITRATION PANEL

Richard Howard Gregory

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Public Arbitrator, Presiding Chairperson

Peter F. Crowell

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Non-Public Arbitrator

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Concurring Arbitrators' Signatures

/s/

Richard Howard Gregory

Public Arbitrator, Presiding Chairperson

05/21/04

Signature Date

/s/

Peter F. Crowell

Non-Public Arbitrator

05/21/04

Signature Date

05/25/04

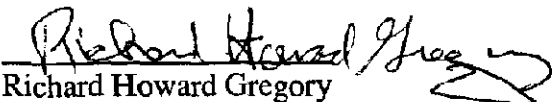
Date of Service (For NASD Dispute Resolution office use only)

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Richard Howard Gregory

Public Arbitrator, Presiding Chairperson

5/21/04

Signature Date

Peter F. Crowell

Non-Public Arbitrator

Signature Date

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Public Arbitrator, Presiding Chairperson



Peter F. Crowell
Non-Public Arbitrator

Signature Date



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