

Award
NASD Dispute Resolution

BINDER COPY

In the Matter of the Arbitration Between:

John Mudgett and Barbara Mudgett, Claimants v. Merrill Lynch, Pierce, Fenner & Smith, Inc.
and Thomas A. Karren, Respondents

Case Number: 01-02046

Hearing Site: Portland, Oregon

REPRESENTATION OF PARTIES

For Claimants:

James E. Bartels, Esq.
Meyer & Wyse
Portland, Oregon

For Respondent Merrill Lynch, Pierce,
Fenner & Smith, Inc.:

Thomas C. Sand, Esq.
Miller Nash
Portland, Oregon

For Respondent Thomas A. Karren:

Joseph C. Arellano, Esq.
Kennedy Watts Arellano & Ricks
Portland, Oregon

CASE INFORMATION

Statement of Claim filed: April 23, 2001

Claimant's Joint Uniform Submission Agreement signed: April 2, 2001

Joint Statement of Answer filed by Respondents: June 29, 2001

Respondent Merrill Lynch, Pierce, Fenner & Smith, Inc.'s Uniform Submission Agreement
signed: June 27, 2001

Respondent Thomas A. Karren's Uniform Submission Agreement signed: July 2, 2001

CASE SUMMARY

Claimants allege breach of fiduciary duty, breach of duties and responsibilities under applicable rules of conduct, breach of contract, negligence and misrepresentation involving transactions in Intel, Yahoo and Habro stock.

Respondents denied the allegations of wrongdoing set forth in the Claimants' Statement of Claim.

RELIEF REQUESTED

Claimants requested compensatory damages of \$100,227.00, unspecified punitive damages, and costs including attorney's fees.

Respondents requested dismissal of the Claimants' Statement of Claim in its entirety, and expungement of all reference to the above captioned arbitration from Respondent Thomas A. Karren's registration records maintained by the NASD Central Registration Depository.

OTHER ISSUES CONSIDERED AND DECIDED

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

AWARD

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

- 1) Claimants' claims are denied in their entirety.
- 2) Respondent Merrill Lynch, Pierce, Fenner & Smith, Inc. is liable to and shall pay Claimants \$840.00 in attorney's fees, pursuant to stipulation of the parties.
- 3) Except as noted above, the parties shall bear their respective costs, including attorney's fees.
- 4) All other relief requested and not expressly granted is denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

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

Initial claim filing fee	= \$ 300.00
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Member Fees

Member fees are assessed to each member firm that is either a party in the matter or an employer of a respondent associated person at the time of the events that gave rise to the dispute, claim, or controversy. Accordingly, the member firm Merrill Lynch, Pierce, Fenner & Smith, Inc. is a party and the following fees are assessed:

Member Surcharge	= \$ 1,500.00
Pre-Hearing Process Fee	= \$ 600.00
<u>Hearing Process Fee</u>	<u>= \$ 2,500.00</u>
Total Member Fees	= \$ 4,600.00

Forum Fees and Assessments

The Panel assessed a forum fee for each pre-hearing conference or hearing session conducted. A pre-hearing conference and hearing session is any meeting between the parties and the Chair or the parties and the Panel. The following fees are assessed:

Two (2) Pre-hearing conference sessions with the Panel @ \$1,125.00/session	= \$ 2,250.00
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Pre-hearing conferences:	May 8, 2002	1 session
	November 18, 2002	1 session

Five (5) Hearing sessions @ \$1,125.00/session	= \$ 5,625.00
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Hearings:	September 26, 2002	2 sessions
	September 27, 2002	1 session
	March 3, 2003	2 sessions

Total Forum Fees	= \$ 7,875.00
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The Panel assessed \$7,875.00 of the forum fees to Respondent Merrill Lynch, Pierce, Fenner & Smith, Inc.

Administrative Costs

Administrative costs are expenses incurred because a party requested additional services beyond the normal administrative services. These additional services include, but are not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, security, and sundry other requests.

Claimants requested copies of Hearing tapes:	= \$	60.00
Respondent Thomas A. Karren requested copies of Hearing tapes	= \$	60.00

Fee Summary

1. Claimants are jointly and severally charged with the following fees and costs:

Initial Filing Fee	= \$	300.00
<u>Administrative Costs</u>	= \$	60.00
Total Fees	= \$	360.00
<u>Less payments</u>	= \$(1,485.00)
Refund Due from NASD Dispute Resolution	= \$(1,125.00)

2. Respondent Merrill Lynch, Pierce, Fenner & Smith, Inc. is charged with the following fees and costs:

Member Fees	= \$	4,600.00
<u>Forum Fees</u>	= \$	7,875.00
Total Fees	= \$	12,475.00
<u>Less payments</u>	= \$(4,600.00)
Balance Due NASD Dispute Resolution	= \$	7,875.00

3. Respondent Thomas A. Karren is charged with the following fees and costs:

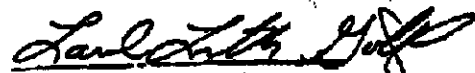
Administrative Costs	= \$	60.00
<u>Less payments</u>	= \$(60.00)
Balance Due NASD Dispute Resolution	= \$	0.00

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

ARBITRATION PANEL

Laurel Littman Gothelf, MPH	-	Public Arbitrator, Presiding Chair
William Ben Utley, IV, MS	-	Public Arbitrator
Gordon MacMillan	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures



Laurel Littman Gothelf, MPH
Chair, Public Arbitrator

2-21-03
Signature Date

Gordon MacMillan
Public Arbitrator

Signature Date

William Ben Utley, IV, MS
Non-Public Arbitrator

Signature Date

04/03/03
Date of Service

ARBITRATION PANEL

Laurel Littman Gothelf, MPH
William Ben Utley, IV, MS
Gordon MacMillan

Public Arbitrator, Presiding Chair
Public Arbitrator
Non-Public Arbitrator


Concurring Arbitrators' Signatures

Laurel Littman Gothelf, MPH
Chair, Public Arbitrator

Signature Date

Gordon MacMillan
Public Arbitrator

Signature Date



William Ben Utley, IV, MS
Non-Public Arbitrator



Signature Date

04/03/03
Date of Service

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Gordon MacMillan	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

Laurel Littman Gothelf, MPH
Chair, Public Arbitrator

Signature Date


Gordon MacMillan
Public Arbitrator

4/2/03
Signature Date

William Ben Utley, IV, MS
Non-Public Arbitrator

Signature Date