

Award
NASD Dispute Resolution, Inc.

In the Matter of the Arbitration Between:

Mattick Family Partnership, Ltd., Claimant v. Merrill Lynch, Pierce, Fenner & Smith, Inc. and J. Judd Peterson, Respondents

Case Number: 01-02128

Hearing Site: Tampa, Florida

REPRESENTATION OF PARTIES

For Mattick Family Partnership, Ltd., hereinafter referred to as "Claimant": Robert Dyer, Esq., Allen, Dyer, Doppelt, Milbrath & Gilchrist, P.A., Orlando, Florida.

For Merrill Lynch, Pierce, Fenner & Smith, Inc. ("MLPFS") and J. Judd Peterson ("Peterson"), hereinafter collectively referred to as "Respondents": Kevin T. Duffy, Jr., Vice President and Counsel, Respondent MLPFS, New York, New York. On June 13, 2002, Neil S. Baritz, Esq., Dreier, Baritz & Colman, Boca Raton, Florida, appeared as counsel for Respondents.

CASE INFORMATION

Statement of Claim filed: April 19, 2001.

Claimant's Uniform Submission Agreement signed: April 13, 2001.

Statement of Answer filed by Respondents: June 27, 2001.

Respondent MLPFS' Uniform Submission Agreement signed: August 8, 2001.

Respondent Peterson did not file an executed Uniform Submission Agreement.

CASE SUMMARY

Claimant sought damages relating to Claimant's investments in a Merrill Lynch Corporate High Yield bond fund and the Eaton Vance High Income Fund.

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

RELIEF REQUESTED

Claimant requested: 1) compensatory damages in the amount of \$276,735.00; 2) interest in the

amount of \$46,230.00; and 3) costs.

Respondents requested: 1) dismissal of the Claimant's Statement of Claim in its entirety; 2) costs; and 3) attorneys' fees.

OTHER ISSUES CONSIDERED AND DECIDED

Respondent Peterson did not file with the NASD Dispute Resolution, Inc. a properly executed submission agreement but is required to submit to arbitration pursuant to the NASD Code of Arbitration Procedure (the "Code") and having answered the claim, appeared and testified at the hearing, is bound by the determination of the undersigned arbitrators (the "Panel") on all issues submitted.

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, and the post-hearing submissions (if any), the Panel decided in full and final resolution of the issues submitted for determination as follows:

- 1) All claims are denied in their entirety.
- 2) The parties shall bear their respective costs.
- 3) All other relief requested and not expressly granted is denied.

FEEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Dispute Resolution, Inc. 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 which gave rise to the dispute, claim, or controversy. Accordingly, the member firm Respondent MLPFS is a party and the following fees are assessed:

Member Surcharge	= \$1,500.00
Pre-Hearing Process Fee	= \$ 600.00

Hearing Process Fee	= \$2,500.00
Total Member Fees	= \$4,600.00

Adjournment Fees

The following adjournment fees are assessed:

There were no adjournment fees assessed during these proceedings.

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/Panel. The following fees are assessed:

(1) Pre-hearing conference session with the Panel @ \$1,125.00/session	= \$1,125.00
Pre-hearing conference: December 17, 2001 1 session	

(5) Hearing sessions @ \$1,125.00/session	= \$5,625.00
Hearings: June 3, 2002 2 sessions	
June 4, 2002 3 sessions	

Total Forum Fees	= \$6,750.00
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The Panel assessed \$3,375.00 of the forum fees to Claimant.

The Panel assessed \$1,687.50 of the forum fees to Respondent MLPFS.

The Panel assessed \$1,687.50 of the forum fees to Respondent Peterson.

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 other requests.

There were no administrative costs incurred during these proceedings.

Fee Summary

Claimant is charged with the following fees and costs:

Initial Filing Fee	= \$ 300.00
Forum Fees	= \$3,375.00
Total Fees	= \$3,675.00
Less payments	= \$1,425.00
Balance Due NASD Dispute Resolution, Inc.	= \$2,250.00

Respondent MLPFS is charged with the following fees and costs:

Member Fees	= \$4,600.00
<u>Forum Fees</u>	<u>= \$1,687.50</u>
Total Fees	= \$6,287.50
<u>Less payments</u>	<u>= \$3,000.00</u>
Balance Due NASD Dispute Resolution, Inc.	= \$3,287.50

Respondent Peterson is charged with the following fees and costs:

<u>Forum Fees</u>	<u>= \$1,687.50</u>
Total Fees	= \$1,687.50
<u>Less payments</u>	<u>= \$ 0.00</u>
Balance Due NASD Dispute Resolution, Inc.	= \$1,687.50

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

ARBITRATION PANEL

<i>Jacquelyn M. Shannon, Esq.</i>	-	<i>Public Arbitrator, Presiding Chair</i>
<i>Thomas H. McAvoy</i>	-	<i>Public Arbitrator</i>
<i>Archibald L. Watkins</i>	-	<i>Non-Public Arbitrator</i>

Concurring Arbitrators' Signatures

/s/
Jacquelyn M. Shannon, Esq.
Chair, Public Arbitrator

Signature Date

/s/
Thomas H. McAvoy
Public Arbitrator

Signature Date

/s/
Archibald L. Watkins
Industry/Non-Public Arbitrator

Signature Date

July 2, 2002
Date of Service

Respondent MLPFS is charged with the following fees and costs:

Member Fees	= \$4,600.00
Forum Fees	= \$1,687.50
Total Fees	= \$6,287.50
Less payments	= \$3,000.00
Balance Due NASD Dispute Resolution, Inc.	= \$3,287.50

Respondent Peterson is charged with the following fees and costs:

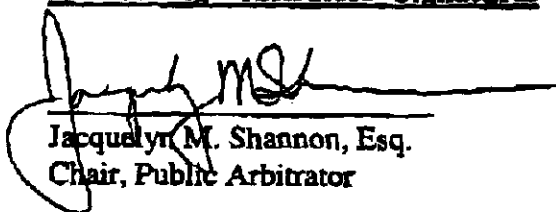
Forum Fees	= \$1,687.50
Total Fees	= \$1,687.50
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution, Inc.	= \$1,687.50

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

ARBITRATION PANEL

<i>Jacquelyn M. Shannon, Esq.</i>	-	<i>Public Arbitrator, Presiding Chair</i>
<i>Thomas H. McAvoy</i>	-	<i>Public Arbitrator</i>
<i>Archibald L. Watkins</i>	-	<i>Non-Public Arbitrator</i>

Concurring Arbitrators' Signatures



Jacquelyn M. Shannon, Esq.
Chair, Public Arbitrator

7-1-02

Signature Date

Thomas H. McAvoy
Public Arbitrator

Signature Date

Archibald L. Watkins
Industry/Non-Public Arbitrator

Signature Date

Date of Service

Respondent MLFFS is charged with the following fees and costs:

Member Fees	= \$4,600.00
Forum Fees	= \$1,687.50
Total Fees	= \$6,287.50
Less payments	= \$3,000.00
Balance Due NASD Dispute Resolution, Inc.	= \$3,287.50

Respondent Peterson is charged with the following fees and costs:

Forum Fees	= \$1,687.50
Total Fees	= \$1,687.50
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution, Inc.	= \$1,687.50

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

ARBITRATION PANEL

Jacquelyn M. Shannon, Esq.

Thomas H. McAvoy

Archibald L. Watkins

Public Arbitrator, Presiding Chair

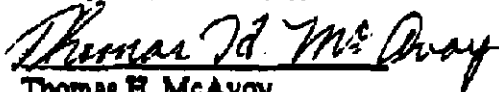
Public Arbitrator

Non-Public Arbitrator

Concurring Arbitrators' Signatures

Jacquelyn M. Shannon, Esq.

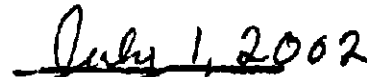
Chair, Public Arbitrator



Thomas H. McAvoy

Public Arbitrator

Signature Date


July 1, 2002
Signature Date

Archibald L. Watkins

Industry/Non-Public Arbitrator

Signature Date

Date of Service

Respondent MLPFS is charged with the following fees and costs:

Member Fees	= \$4,600.00
<u>Forum Fees</u>	<u>= \$1,687.50</u>
Total Fees	= \$6,287.50
<u>Less payments</u>	<u>= \$3,000.00</u>
Balance Due NASD Dispute Resolution, Inc.	= \$3,287.50

Respondent Peterson is charged with the following fees and costs:

<u>Forum Fees</u>	<u>= \$1,687.50</u>
Total Fees	= \$1,687.50
<u>Less payments</u>	<u>= \$ 0.00</u>
Balance Due NASD Dispute Resolution, Inc.	= \$1,687.50

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

ARBITRATION PANEL

Jacquelyn M. Shannon, Esq.	-	Public Arbitrator, Presiding Chair
Thomas H. McAvoy	-	Public Arbitrator
Archibald L. Watkins	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

Jacquelyn M. Shannon, Esq.
Chair, Public Arbitrator

Signature Date

Thomas H. McAvoy
Public Arbitrator

Signature Date

Archibald L. Watkins
Industry/Non-Public Arbitrator

7-2-06

Signature Date

Date of Service