

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimants
Richard & Mary O'Neill

Case Number: 01-02382

Name of the Respondents
Merrill Lynch Pierce Fenner & Smith Inc
Glenn W. Baumer

Hearing Site: Philadelphia, PA

REPRESENTATION OF PARTIES

Claimants, Richard J. O'Neill and Mary E. O'Neill, hereinafter collectively referred to as "Claimants": Edward Fackenthal, Esq., Henderson, Wetherill, O'Hey & Horsey, Norristown, PA.

Respondents, Merrill Lynch Pierce Fenner & Smith Inc. ("Merrill") and Glenn W. Baumer ("Baumer"), hereinafter collectively referred to as "Respondents": William E. Mahoney, Jr., Esq., Stradley Ronon Stevens & Young, LLP, Philadelphia, PA.

CASE INFORMATION

Statement of Claim filed on: May 7, 2001.

Claimants signed the Uniform Submission Agreement: May 7, 2001.

Statement of Answer filed by Respondents on: July 2, 2001.

A representative of Respondent Merrill signed the Uniform Submission Agreement: July 2, 2001.

Respondent Baumer did not sign a Uniform Submission Agreement.

CASE SUMMARY

Claimants asserted the following causes of action: breach of contract; margin calls; negligence; failure to supervise; breach of fiduciary duty; omission of facts; and, suitability. The causes of action relate to the retention of Waste Management common stock

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted the following defenses, among others: failure to state a claim upon which relief may be granted; estoppel; failure to mitigate damages; Respondents owed no fiduciary duty; ratification; and, any damages suffered were attributable to market conditions.

RELIEF REQUESTED

Claimants requested:

Compensatory Damages	\$ 500,000
Other Costs	\$ 1,575

Respondents requested that the claim be dismissed in its entirety and that the cost of this proceeding, including attorney's fees, be assessed against Claimants.

OTHER ISSUES CONSIDERED AND DECIDED

Respondent Baumer did not file with NASD Dispute Resolution, a properly executed submission to arbitration but is required to submit to arbitration pursuant to the Code and, having answered the claim, appeared and testified at the hearing, is bound by the determination of the Panel on all issues submitted.

The parties have 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, 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. Claimants' claim is denied in its entirety;
2. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Baumer'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 Baumer must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive;
3. That the parties shall bear their respective costs, including attorneys fees, except as Fees are specifically addressed below; and,
4. That any and all claims not specifically addressed herein are denied in their 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 firms that employed the associated persons at the time of the events giving rise to the dispute. Accordingly, Respondent Merrill is a party.

Member surcharge = \$ 1,500.00

Pre-hearing process fee = \$ 600.00

Hearing process fee = \$ 2,500.00

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:

Two (2) Pre-hearing sessions with a single arbitrator @ \$ 450 = \$ 900.00

Pre-hearing conferences: June 20, 2002 1 session
August 13, 2002 1 session

One (1) Pre-hearing session with Panel @ \$1,125 = \$ 1,125.00

Pre-hearing conference: May 13, 2002 1 session

Four (4) Hearing sessions @ \$ 1,125 = \$ 4,500.00

Hearing Dates: August 20, 2002 2 sessions
August 21, 2002 2 sessions

Total Forum Fees = \$ 6,525.00

1. The Panel has assessed \$ 3,262.50 of the forum fees to Claimants.

2. The Panel has assessed \$ 3,262.50 of the forum fees jointly and severally to Respondents.

Fee Summary

Claimants are assessed and shall pay:

Initial Filing Fee = \$ 300.00

Forum Fees = \$ 3,262.50

Total Fees = \$ 3,562.50

Less payments = \$ 1,575.00

Balance Due NASD Dispute Resolution = \$ 1,987.50

Respondent, Merrill, is assessed and shall pay:

Member Fees	= \$ 4,600.00
Total Fees	= \$ 4,600.00
Less payments	= \$ 4,600.00
Balance Due NASD Dispute Resolution	= \$ 00

Respondents, Merrill and Baumer, are jointly and severally assessed and shall pay:

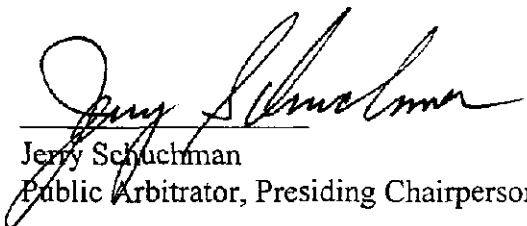
Forum Fees	= \$ 3,262.50
Total Fees	= \$ 3,262.50
Less payments	= \$ 00
Balance Due NASD Dispute Resolution	= \$ 3,262.50

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

ARBITRATION PANEL

Jerry Schuchman, Esq.	-	Public Arbitrator, Presiding Chairperson
Daniel J. Begley	-	Public Arbitrator, Panelist
Vernon C. Walker	-	Non-Public Arbitrator, Panelist

Concurring Arbitrators' Signatures



Jerry Schuchman
Public Arbitrator, Presiding Chairperson

8/30/2002

Signature Date

Daniel J. Begley
Public Arbitrator, Panelist

Signature Date

Vernon C. Walker
Non-Public Arbitrator, Panelist

Signature Date

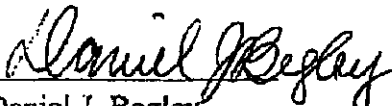
September 13, 2002

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

Concurring Arbitrators' Signatures

Jerry Schuchman
Public Arbitrator, Presiding Chairperson

Signature Date


Daniel J. Begley
Public Arbitrator, Panelist


Signature Date

Vernon C. Walker
Non-Public Arbitrator, Panelist

Signature Date

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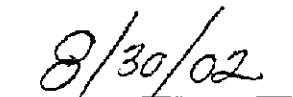
Jerry Schuchman
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