

Award
NASD Dispute Resolution, Inc.

In the Matter of the Arbitration Between:

Claimants/CounterRespondents

Russell J. Effrig and M. Bridget Effrig, JTWROS

Case Number: 01-02708

Respondents/CounterClaimants

Merrill Lynch Pierce Fenner & Smith and Terri B. Ucci

Hearing Site: Chicago, Illinois

REPRESENTATION OF PARTIES

Claimants/CounterRespondents, Russell J. Effrig and M. Bridget Effrig, JTWROS hereinafter collectively referred to as "Effrig": C. Philip Curley, Esq. of the law firm Robinson Curley & Clayton, P.C. located in Chicago, Illinois.

Respondents/CounterClaimants, Merrill Lynch Pierce Fenner & Smith ("Merrill Lynch") and Terri B. Ucci ("Ucci"): William J. Nissen, Esq. of the firm Sidley Austin Brown & Wood located in Chicago, Illinois.

CASE INFORMATION

Statement of Claim filed on or about: May 22, 2001

Amended Statement of Claim filed on or about: April 04, 2002

Russell and M. Bridget Effrig each signed the Uniform Submission Agreement: May 18, 2001
Effrig's Reply and Defenses to CounterClaim filed on or about: July 27, 2001

Joint Statement of Answer and CounterClaim filed by Merrill Lynch and Ucci on or about: July 16, 2001

Merrill Lynch signed the Uniform Submission Agreement: June 05, 2001

Ucci signed the Uniform Submission Agreement: July 12, 2001

Effrig's Motion for Leave to Amend Statement of Claim filed on or about: March 22, 2002

Merrill Lynch and Effrig's Opposition to the Effrig's Motion for Leave to Amend Statement of Claim filed on or about: April 09, 2002

Effrig's Reply to Opposition to Effrig's Motion for Leave to Amend filed on or about: April 29, 2002

Merrill Lynch and Ucci's Motion to Dismiss filed on or about: April 09, 2002

Effrig's Response to Motion to Dismiss filed on or about: April 29, 2002

Brief in Support of Merrill Lynch and Effrig's Motion to Dismiss filed on or about: May 03, 2002

CASE SUMMARY

The causes of action relate to the MyPoint.com stock options Russell Effrig had earned during his employment with MyPoints.com.

The Effrig asserted the following causes of action: Breach of Contract, Negligence, Recklessness Failure to Execute, Suitability, and Breach of Fiduciary Duty.

Unless specifically admitted in their Answer, Merrill Lynch and Ucci denied the allegations made in the Statement of Claim and asserted the following defenses: No conduct of Merrill Lynch or Ucci has any causal connection to any damages claimed by the Effrigs; Failure to Mitigate; Claims barred by the doctrines of contributory negligence, comparative negligence, and/or assumption of risk; and Claims barred by the economic loss doctrine.

Merrill Lynch and Ucci asserted the following cause of action: Debit Balance.

Unless specifically admitted in their Reply to CounterClaim, the Effrigs denied the allegations made in the Statement of Claim and asserted the following defenses: Estoppel; Claim barred by the doctrine of contributory negligence; and Claim barred by the doctrine of unclean hands.

RELIEF REQUESTED

Effrig requested:

Compensatory Damages	\$1,000,000.00
Punitive Damages	\$1,500,000.00
Attorneys' Fees	reasonable
Other Costs	not specified
Other Monetary/Non-Monetary Relief if any:	disgorgement and restitution and any relief the panel may deem appropriate

Merrill Lynch and Ucci requested:

Compensatory Damages	\$44,859.85
Interest	margin interest from September 2000
Attorneys' Fees	reasonable
Other Costs	not specified
Other Monetary/Non-Monetary Relief if any:	any relief the panel may deem appropriate

OTHER ISSUES CONSIDERED AND DECIDED

After careful consideration the Panel granted the Effrig's Motion for Leave to Amend the Statement of claim and denied Merrill Lynch and Ucci's Motion to Dismiss.

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. Russell J. Effrig and M. Bridget Effrig, JTWROS are liable for and shall pay to Merrill Lynch Pierce Fenner & Smith and Terri B. Ucci the sum of \$39,859.85 as compensatory damages.
2. Russell J. Effrig and M. Bridget Effrig, JTWROS are liable for and shall pay to Merrill Lynch Pierce Fenner & Smith and Terri B. Ucci interest on compensatory damages at Merrill Lynch's actual margin rate interest in September 2000, already due in the account. The interest began to accrue September 29, 2000 and ceases to accrue upon full payment of the award.
3. Russell J. Effrig and M. Bridget Effrig, JTWROS are liable for and shall pay to Merrill Lynch Pierce Fenner & Smith and Terri B. Ucci the sum of \$4,500.00 as costs.
4. Russell J. Effrig and M. Bridget Effrig, JTWROS are liable for and shall pay to Merrill Lynch Pierce Fenner & Smith and Terri B. Ucci the sum of \$8,318.75 as attorney's fees. In deciding to award attorney's fees, the panel considered the parties' submissions and arguments and found that authority exists for such an award in accordance with relevant law and the parties' contractual duties.
5. Terri Ucci's request for expungement of her CRD record is denied.
6. Parties shall bear their own costs, except as provided herein.
7. Any and all claims asserted by Russell J. Effrig and M. Bridget Effrig, JTWROS against Merrill Lynch Pierce Fenner & Smith and Terri B. Ucci are denied in their entirety.
8. Any and all relief not specifically addressed herein, including punitive damages, is denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Dispute Resolution, Inc. will retain or collect the non-refundable filing fees for each claim:

Initial claim filing fee	= \$ 500.00
CounterClaim filing fee	= \$1,000.00

Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm(s) that employed the associated person at the time of the events giving rise to the dispute. Accordingly, Merrill Lynch Pierce Fenner & Smith and Terri B. Ucci is a party.

Member surcharge	= \$2,500.00
Pre-hearing process fee	= \$ 600.00
Hearing process fee	= \$4,500.00
Total	= \$7,600.00

Forum Fees and Assessments

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

One (1) Pre-hearing session with a single arbitrator at \$450.00 = \$ 450.00
 Pre-hearing conference: May 07, 2002 1 session

One (1) Pre-hearing session with Panel at \$1,200.00 = \$1,200.00
 Pre-hearing conference: February 20, 2002 1 session

Seven (7) Hearing sessions at \$1,200.00 = \$8,400.00
 Hearing Dates: June 17, 2002 2 sessions
 June 18, 2002 2 sessions
 June 19, 2002 2 sessions
 June 20, 2002 1 session

Total Forum Fees = \$10,050.00

The Panel has assessed \$10,050.00 of the forum fees to Russell J. Effrig and M. Bridget Effrig, JTWROS.

Fee Summary

1. Claimant, Russell J. Effrig and M. Bridget Effrig, JTWROS, are jointly and severally liable for:

Initial Filing Fee	= \$ 500.00
Forum Fees	= \$10,050.00
Total Fees	= \$10,550.00
Less payments	= \$ 1,700.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 8,850.00

2. Merrill Lynch Pierce Fenner & Smith is solely liable for:

Member Fees	= \$ 7,600.00
Total Fees	= \$ 7,600.00
Less payments	= \$ 6,100.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 1,500.00

3. Merrill Lynch Pierce Fenner & Smith and Terri B. Ucci, are jointly and severally liable for:

CounterClaim Filing Fee	= \$ 1,000.00
Total Fees	= \$ 1,000.00
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 1,000.00

NASD Dispute Resolution, Inc.

Arbitration No. 01-02708

Award Page 5 of 5

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

ARBITRATION PANEL

Robin David, Esq.	-	Public Arbitrator, Presiding Chairperson
William Mock, Esq.	-	Public Arbitrator
Dr. Robert W. Haggarty, III	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

/s/ Robin David

07/17/02

Robin David, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

/s/ William Mock

07/02/02

William Mock, Esq.
Public Arbitrator

Signature Date

/s/ Robert W. Haggarty

Dr. Robert W. Haggarty, III
Non-Public Arbitrator

Signature Date

07/25/02

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

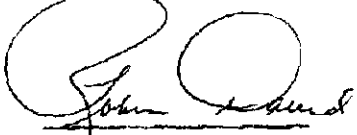
NASD Dispute Resolution, Inc.
Arbitration No. 01-02708
Award Page 5 of 5

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

ARBITRATION PANEL

Robin David, Esq.	-	Public Arbitrator, Presiding Chairperson
William Mock, Esq.	-	Public Arbitrator
Dr. Robert W. Haggarty, III	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures


Robin David, Esq.
Public Arbitrator, Presiding Chairperson

7-17-02
Signature Date

William Mock, Esq.
Public Arbitrator

Signature Date

Dr. Robert W. Haggarty, III
Non-Public Arbitrator

Signature Date

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

NASD Dispute Resolution, Inc.
Arbitration No. 01-02708
Award Page 5 of 5

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

ARBITRATION PANEL

Robin David, Esq.	-	Public Arbitrator, Presiding Chairperson
William Mock, Esq.	-	Public Arbitrator
Dr. Robert W. Haggarty, III	-	Non-Public Arbitrator

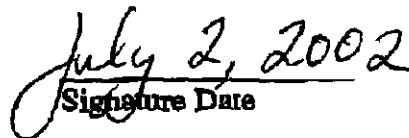
Concurring Arbitrators' Signatures

Robin David, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date



William Mock, Esq.
Public Arbitrator



Signature Date

Dr. Robert W. Haggarty, III
Non-Public Arbitrator

Signature Date

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

NASD Dispute Resolution, Inc.
Arbitration No. 01-02708
Award Page 5 of 5

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

ARBITRATION PANEL

Robin David, Esq.	-	Public Arbitrator, Presiding Chairperson
William Mock, Esq.	-	Public Arbitrator
Dr. Robert W. Haggarty, III	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

Robin David, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

William Mock, Esq.
Public Arbitrator

Signature Date

Dr. Robert W. Haggarty, III Ph.D.
Dr. Robert W. Haggarty, III
Non-Public Arbitrator

[Signature]
Signature Date

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