

Award
NASD Dispute Resolution, Inc.

In the Matter of the Arbitration Between:

Steven Lloyd Higgins and Susan Nelson Higgins, Trustees of the Higgins Family Trust,
Claimants v. Merrill Lynch, Pierce, Fenner & Smith, Inc., Respondent

Case Number: 01-02955

Hearing Site: San Diego, California

REPRESENTATION OF PARTIES

For Claimants:

Jeffrey M. Byer, Esq.
Sandler, Lasry, Laube, Byer
& Valdez, LLP
San Diego, California

For Respondent:

Michael M. Gless, Esq.
Keesal, Young & Logan
Long Beach, California

CASE INFORMATION

Statement of Claim filed: May 21, 2001

Claimants' Uniform Submission Agreement signed: May 23, 2001

Statement of Answer filed by Respondent Merrill Lynch, Pierce, Fenner & Smith, Inc.:
October 15, 2001

Respondent's Uniform Submission Agreement signed: October 18, 2001

CASE SUMMARY

Claimants alleged negligence, breach of contract, breach of fiduciary duty, and violations of federal and state securities laws. The dispute involved the purchase and/or sale of Applied Micro Circuits Corporation stock.

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

RELIEF REQUESTED

Claimants requested compensatory damages in the sum of \$117,749.83, margin interest, and pre-judgment interest.

Respondent requested dismissal of the Claimants' Statement of Claim in its entirety, and arbitration costs.

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) Respondent Merrill Lynch, Pierce, Fenner & Smith, Inc. is liable to and shall pay Claimants \$117,854.83 in compensatory damages.
- 2) Respondent Merrill Lynch, Pierce, Fenner & Smith, Inc. is liable to and shall pay Claimants \$300.00 for reimbursement of filing fees.
- 3) 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, 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 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>	= \$ 2,500.00
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 Arbitrator/Panel. The following fees are assessed:

1 Pre-hearing conference session with a single arbitrator @ \$ 450.00/session	= \$ 450.00
Pre-hearing conference: June 13, 2002	1 session
1 Pre-hearing conference session with the Panel @ \$ 1,125.00/session	= \$ 1,125.00
Pre-hearing conference: April 25, 2002	1 session
3 Hearing sessions @ \$ 1,125.00/session	= \$ 3,375.00
Hearings: June 24, 2002	2 sessions
June 25, 2002	1 session
Total Forum Fees	= \$ 4,950.00

The Panel assessed \$ 4,950.00 of the forum fees to Respondent Merrill Lynch, Pierce, Fenner & Smith, Inc.

Fee Summary

1. Claimants, Steven Lloyd Higgins and Susan Nelson Higgins, Trustees of the Higgins Family Trust, are charged jointly and severally with the following fees and costs:

Initial Filing Fee	= \$ 300.00
<u>Less payments</u>	<u>= \$(1,425.00)</u>
Refund Due Claimants	= \$(1,125.00)

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

Member Fees	= \$ 4,600.00
Forum Fees	= \$ 4,950.00
Total Fees	= \$ 9,550.00
<u>Less payments</u>	<u>= \$(5,200.00)</u>
Balance Due NASD Dispute Resolution, Inc.	= \$ 4,350.00

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

Mandel E. Himmelstein, Esq.

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Public Arbitrator, Presiding Chair

Virginia H. Wertz, RHU

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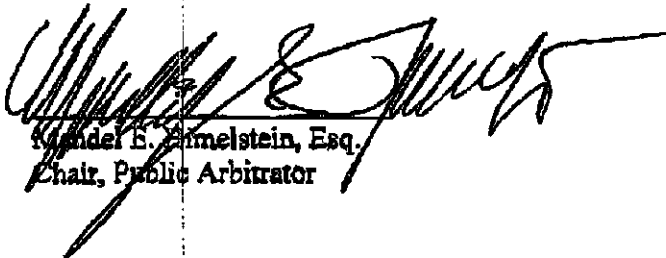
Public Arbitrator

Sidney Jacobsen, Esq.

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Non-Public Arbitrator

Concurring Arbitrators' Signatures



Mandel E. Himmelstein, Esq.
Chair, Public Arbitrator

7/03/02
Signature Date

Virginia H. Wertz, RHU
Public Arbitrator

Signature Date

Sidney Jacobsen, Esq.
Non-Public Arbitrator

Signature Date

7/3/02
Date of Service

ARBITRATION PANEL

Mandel E. Himmelstein, Esq.	-	Public Arbitrator, Presiding Chair
Virginia H. Wertz, RHU	-	Public Arbitrator
Sidney Jacobsen, Esq.	-	Non-Public Arbitrator


Concurring Arbitrators' Signatures

Mandel E. Himmelstein, Esq.
Chair, Public Arbitrator

Signature Date

Virginia H. Wertz, RHU
Public Arbitrator

Signature Date



Sidney Jacobsen, Esq.
Non-Public Arbitrator

7/3/02

Signature Date

7/3/02

Date of Service