

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:
Donald Weiss v. Merrill Lynch, Pierce, Fenner & Smith

Case Number: 01-02982

Hearing Site: Las Vegas, Nevada

REPRESENTATION OF PARTIES

For Claimant:

Donald Weiss
In Pro Per
Las Vegas, Nevada

For Respondent:

Daren A. Luma, Esq.
Merrill Lynch
New York, New York

CASE INFORMATION

Statement of Claim filed: June 4, 2001

Claimant's Uniform Submission Agreement signed: May 24, 2001

Statement of Answer filed by Respondent Merrill Lynch, Pierce, Fenner & Smith: August 7, 2001

Respondent's Uniform Submission Agreement signed: August 6, 2001

CASE SUMMARY

Claimant alleged failure properly execute transactions in his brokerage account.

Respondent denied the allegations of wrongdoing set forth in the Claimant's Statement of Claim and asserted defenses of no damages, failure to state a cause of action, estoppel, waiver, reasonableness of Respondents, ratification, assumption of risk, laches, and contributory negligence.

RELIEF REQUESTED

Claimant requested compensatory damages of \$13,780.50.

Respondent requested dismissal of the Claimant's Statement of Claim in its entirety.

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 Arbitrator decided in full and final resolution of the issues submitted for determination as follows:

- 1) Claimant's claims are denied in their entirety.
- 2) The parties shall each bear their respective costs, including attorney's fees.
- 3) 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	= \$ 125.00
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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, Merrill Lynch, Pierce, Fenner & Smith is a party and the following fees are assessed:

Member Surcharge	= \$ 400.00
Total Member Fees	= \$ 400.00

Forum Fees and Assessments

The Arbitrator 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. The following fees are assessed:

One (1) Pre-hearing conference session with a single arbitrator @ \$ 450.00/session = \$ 450.00
Pre-hearing conference: March 6, 2002 1 session

Two (2) Hearing sessions @ \$450.00/session = \$ 900.00
Hearing: October 10, 2002 2 sessions

Total Forum Fees = \$1,350.00

1. The Arbitrator assessed \$ 1,125.00 of the forum fees to Claimant Donald Weiss.
2. The Arbitrator assessed \$ 225.00 of the forum fees to Respondent Merrill Lynch, Pierce, Fenner & Smith.

Fee Summary

1. Claimant, Donald Weiss, is charged with the following fees and costs:

Initial Filing Fee	= \$ 125.00
Forum Fees	= \$ 1,125.00
<hr/> Total Fees	= \$ 1,250.00
Less payments	= \$ (575.00)
<hr/> Balance Due NASD Dispute Resolution	= \$ 675.00

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

Member Fees	= \$ 400.00
Forum Fees	= \$ 225.00
<hr/> Total Fees	= \$ 625.00
Less payments	= \$(400.00)
<hr/> Balance Due NASD Dispute Resolution	= \$ 225.00

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.

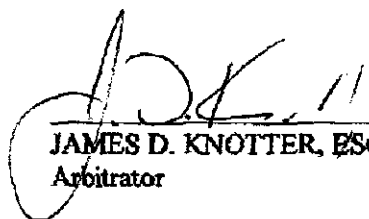
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PUBLIC ARBITRATOR

James D. Knotter, Esq.

Public Arbitrator

Arbitrator's Signature


JAMES D. KNOTTER, ESQ.
Arbitrator

10/25/02
Signature Date

10/29/02
Date of Service