

**Stipulated Award
NASD Dispute Resolution**

In the Matter of the Arbitration Between:

Name of the Claimant

Bruce M. Denkert, as Trustee for the Bruce
M. Denkert Revocable Trust

Case Number: 02-02319

Names of the Respondents

Merrill Lynch, Pierce, Fenner & Smith, Inc.
Richard C. Emerson
Danny Andrew Waller, II

Hearing Site: Orlando, Florida

Nature of the Dispute: Customer vs. Member and Associated Person

REPRESENTATION OF PARTIES

For Bruce M. Denkert, as Trustee for the Bruce M. Denkert Revocable Trust, hereinafter referred to as "Claimant": Alan J. Foxman, Esq., The Law Offices of Alan J. Foxman, P.A., Boca Raton, FL.

For Merrill Lynch, Pierce, Fenner & Smith, Inc. ("MLPFS"), Richard C. Emerson ("Emerson"), and Danny Andrew Waller, II ("Waller"), hereinafter collectively referred to as "Respondents": Bennett Falk, Esq. and Coren H. Stern, Esq., Bressler, Amery & Ross, P.C., Miramar, FL.

CASE INFORMATION

Statement of Claim filed on or about: April 22, 2002.

Claimant signed the Uniform Submission Agreement: April 12, 2002.

Statement of Answer filed by Respondents on or about: July 19, 2002.

Respondent MLPFS signed the Uniform Submission Agreement: July 2, 2002.

Respondents Emerson and Waller did not file executed Uniform Submission Agreements.

CASE SUMMARY

Claimant asserted the following causes of action: misrepresentations and/or omissions of material facts; violations of NASD Conduct Rule IM-2310; violation of Florida Statutes §517.301; violation of Sections 10(b) and 20(a) of the Securities Exchange Act of 1934 and Rule 10(b)(5) thereunder; unsuitability; negligence; breach of fiduciary duty; failure to supervise; common law fraud; deceit; respondeat superior; and, fraudulent course of conduct. The causes of action relate to the purchase of unspecified securities in Claimant's account.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

Claimant requested compensatory damages of \$262,000.00, lost income under the "well managed portfolio" theory of recovery, punitive damages, interest, attorneys' fees and costs as provided by Florida Statutes §517.211(3)(a)(6), and any other relief that is just, fair, and equitable.

Respondents requested that the Statement of Claim be dismissed in its entirety, that all forum fees and expenses be assessed against Claimant, and Respondents reserved their right to recover attorneys' fees.

OTHER ISSUES CONSIDERED AND DECIDED

On or about July 24, 2006, the parties submitted a proposed Stipulated Award which recommended that all references to this matter be expunged from the NASD Central Registration Depository ("CRD") records of Respondent Emerson.

On or about August 16, 2006, the undersigned arbitrators (the "Panel") entered an order which directed the parties to provide the Panel with additional information.

On or about September 13, 2006, the parties filed a Stipulated Statement of Facts in which the parties affirmatively stated that Respondent Emerson did nothing improper and that he has not provided any compensation to Claimant.

On or about September 26, 2006, the Panel entered an order which granted the parties' request for entry of a Stipulated Award recommending expungement of Respondent Emerson's NASD CRD records.

The parties have agreed that the Stipulated Award in this matter may be executed in counterpart copies or that a handwritten, signed Stipulated Award may be entered.

AWARD

The parties entered into an agreement to present to the Panel a Stipulated Award. Now, in lieu of a hearing and upon joint motion of both parties for the entry of an award and the written stipulation thereto, the Panel grants the motion and enters this award granting the following relief:

This matter was filed with NASD in 2002. The Panel notes that Claimant consents to an expungement of Respondent Emerson's CRD records. The Claimant has advised the Panel that based on the facts and evidence that were available to Claimant's counsel at the time the Statement of Claim was filed, Claimant and his counsel believed that the claims brought against Respondent Emerson were appropriate. However, after engaging in discovery, counsel for Claimant determined that the evidence did not support the allegations made and, consequently, advised Claimant that it would be in his best interest to dismiss Respondent Emerson. Claimant subsequently settled with the remaining Respondents.

Consequently, in light of the information currently available to the Claimant, the evidence did not support the allegations made and, therefore, the causes of action should be considered factually impossible or clearly erroneous.

The Panel recommends the expungement of all references to the above-captioned arbitration from Respondent Emerson's registration records, CRD No. 2335027, maintained by the NASD CRD, with the understanding that pursuant to NASD Notices to Members 99-09 and 99-54, Respondent Emerson must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

FEES

Pursuant to the NASD Code of Arbitration Procedure ("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
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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(s) at the time of the event(s) giving rise to the dispute. Accordingly, Respondent MLPFS is a party and member firm.

Member surcharge	= \$1,700.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$2,750.00

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

1. January 7-9, 2004, adjournment by Claimant.	= \$1,125.00
2. May 3 and 4, 2005, adjournment by Claimant.	= \$1,500.00
3. January 10-13, 2006, adjournment by Claimant.	= \$1,500.00

The Panel assessed one-half of the third adjournment fee to Claimant and one-half to Respondent MLPFS.

Three-Day Cancellation Fees

Fees apply when a hearing on the merits is postponed or settled within three business days before the start of a scheduled hearing session:

June 20-22, 2006, settled by Claimant.	= \$ 150.00
June 20-22, 2006, settled by Respondents.	= \$ 150.00

Injunctive Relief Fees

Injunctive relief fees are assessed to each member or associated person who files for a temporary injunction in court. Parties in these cases are also assessed arbitrator travel expenses and costs when an arbitrator is required to travel outside his or her hearing location and additional arbitrator honoraria for the hearing for permanent injunction.

These fees, except the injunctive relief surcharge, are assessed equally against each party unless otherwise directed by the panel.

No injunctive relief fees were assessed during these proceedings.

Forum Fees and Assessments

The Arbitrator (Panel) has assessed forum fees for each session conducted or each decision rendered on a discovery-related motion on the papers. 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:

One (1) Decision on a discovery-related motion on the papers with one (1) arbitrator @ \$200.00	= \$ 200.00
Respondent submitted one (1) discovery-related motion	
One (1) Pre-hearing session with the Panel @ \$1,125.00/session	= \$1,125.00
Pre-hearing conference: January 3, 2003 1 session	
<hr/> Total Forum Fees	<hr/> = \$1,325.00

1. The Panel has assessed \$662.50 of the forum fees to Claimant.
2. The Panel has assessed \$662.50 of the forum fees jointly and severally to Respondents.

Administrative Costs

Administrative costs are expenses incurred due to a request by a party for special services beyond the normal administrative services. These include, but not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

No administrative costs were incurred during these proceedings.

Fee Summary

Claimant is solely liable for:

Initial Filing Fee	= \$ 300.00
Adjournment Fee	= \$3,375.00
Retained Hearing Session Deposit pursuant to Rule 10332(f) of the Code	= \$ 462.50
Three-Day Cancellation Fee	= \$ 150.00
Forum Fees	= \$ 662.50
<hr/> Total Fees	<hr/> = \$4,950.00
<u>Less payments</u>	<u>= \$1,425.00</u>
Balance Due NASD Dispute Resolution	= \$3,525.00

Respondent MLPFS is solely liable for:

Adjournment Fee	= \$ 750.00
<u>Member Fees</u>	<u>= \$5,200.00</u>

Total Fees	= \$5,950.00
<u>Less payments</u>	<u>= \$5,200.00</u>
Balance Due NASD Dispute Resolution	= \$ 750.00

Respondents are jointly and severally liable for:

Three-Day Cancellation Fee	= \$ 150.00
<u>Forum Fees</u>	<u>= \$ 662.50</u>
Total Fees	= \$ 812.50
<u>Less payments</u>	<u>= \$ 0.00</u>
Balance Due NASD Dispute Resolution	= \$ 812.50

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

ARBITRATION PANEL

W. A. Westlake	-	Public Arbitrator, Presiding Chairperson
Ronald A. Ronz, CPA	-	Public Arbitrator
Robert W. Schlitt, Jr.	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

/s/
W. A. Westlake
Public Arbitrator, Presiding Chairperson

Signature Date

/s/
Ronald A. Ronz, CPA
Public Arbitrator

Signature Date

/s/
Robert W. Schlitt, Jr.
Non-Public Arbitrator

Signature Date

September 28, 2006
Date of Service (For NASD Dispute Resolution use only)

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Total Fees	= \$5,950.00
Less payments	= \$5,200.00
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Signature Date



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Public Arbitrator

9/28/06

Signature Date

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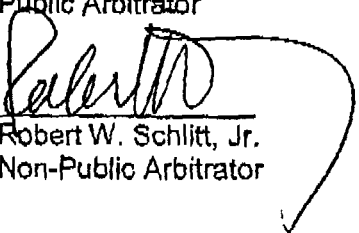
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