

Stipulated Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Dorothy Nelsen-Gille and David A. Gille, Claimants v. Merrill Lynch, Pierce, Fenner and Smith, Inc., Stephen Adams and Robert Marcin, Respondents

Case Number: 02-02456

Hearing Site: New York, New York

REPRESENTATION OF PARTIES

For Claimants:

David Berman, Esq.
David Berman, P.C.
Morristown, New Jersey

For Respondents:

Daren A. Luma, Esq.
Merrill Lynch Pierce Fenner
& Smith Inc.
New York, New York

CASE INFORMATION

Statement of Claim filed: July 20, 2002

Claimants' Uniform Submission Agreement signed: May 7, 2002

Joint Statement of Answer filed by Respondents: October 8, 2002

Respondent Merrill Lynch, Pierce, Fenner and Smith, Inc.'s Uniform Submission Agreement signed: October 8, 2002

Respondent Stephen Adams' Uniform Submission Agreement signed: October 10, 2002

Respondent Robert Marcin's Uniform Submission Agreement signed: October 10, 2002

CASE SUMMARY

Claimants alleged breach of fiduciary duty. The cause of action related to the conversion of Ericsson convertible securities.

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

and asserted the following defenses: failure to state a claim upon which relief could be granted, ratification, estoppel, waiver, assumption of risk, laches, unclean hands, and compliance with all applicable securities laws and regulations.

RELIEF REQUESTED

Claimants requested \$34,125.00 in compensatory damages.

Respondents requested dismissal of Claimants' Statement of Claim in its entirety and sought reimbursement for fees and costs of arbitration.

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

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

- 1) Respondent Merrill Lynch, Pierce, Fenner and Smith, Inc. is liable to and shall pay Claimants \$22,000.00 in compensatory damages.
- 2) Each party shall bear its own costs, including attorney's fees.
- 3) The Panel recommends the expungement of all reference to the above captioned arbitration from Respondents Stephen Adams and Robert Marcin's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 99-09 and 99-54, Respondents Stephen Adams and Robert Marcin must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.
- 4) All other relief not expressly granted is denied.

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	= \$ 175.00
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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 that employed the associated person(s) at the time of the events giving rise to the dispute. In this matter, the member firm Merrill Lynch is a party.

Member Surcharge	= \$ 875.00
Pre-Hearing Process Fee	= \$ 750.00
<u>Hearing Process Fee</u>	= \$ 1,000.00
Total Member Fees	= \$ 2,625.00

Forum Fees and Assessments

The Arbitrator assesses forum fees for each hearing session conducted. A hearing 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. Forum fees associated with these proceedings are:

(1) Pre-hearing conference session(s) with a single arbitrator @ \$ 450/session	= \$ 450.00
<u>Pre-hearing conference(s): February 14, 2003</u>	<u># session</u>
Total Forum Fees	= \$ 450.00

1. The Arbitrator has assessed \$ 225.00 of the forum fees, jointly and severally, against Claimants.
2. The Arbitrator has assessed \$ 225.00 of the forum fees, jointly and severally, against Respondents.

Fee Summary

1. Claimants are liable for:

Initial Filing Fee	= \$ 175.00
<u>Forum Fees</u>	= \$ 225.00
Total Fees	= \$ 400.00
<u>Less payments</u>	= \$ 625.00
Refund Due Claimants	= \$ 225.00

2. Respondent Merrill is solely liable for:

<u>Member Fees</u>	= \$ 2,625.00
Total Fees	= \$ 2,625.00
<u>Less payments</u>	= \$ 2,625.00
Balance Due NASD Dispute Resolution	= \$ 0.00

4. Respondents are jointly and severally liable for:

<u>Forum Fee</u>	= \$ 225.00
Balance Due NASD Dispute Resolution	= \$ 225.00

All balances are due and payable to NASD Dispute Resolution.

Parties' Signatures

Dorothy Nelson-Gille

Dorothy Nelson-Gille
Claimant

4/18/03

Signature Date

David A. Gille

David A. Gille
Claimant

4/18/03

Signature Date

Don A. Co., ESQ. on behalf of

Merrill Lynch Pierce,
Fenner and Smith
Respondent

4/10/03

Signature Date

Stephen Adams

Stephen Adams
Respondent

4/29/03

Signature Date

Robert Marcin

Robert Marcin
Respondent

5/1/03

Signature Date

ARBITRATION PANEL

Wilbur K. Williams

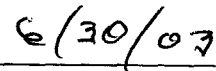
- Public Arbitrator, Presiding Chairperson

Concurring Arbitrator's Signature



Wilbur K. Williams

Public Arbitrator, Presiding Chairperson



Signature Date

July 24, 2003

Date of Service (For NASD office use only)