

**STIPULATED AWARD
NASD Dispute Resolution**

In the Matter of the Arbitration Between

Name of Claimant

Larry Allen Stanley

And

02-04633
Phoenix, Arizona

Name of Respondents

Merrill Lynch Pierce Fenner & Smith, Inc.
Merrill Lynch & Co., Inc.
Robert W. Bidwell
Randolph S. Moore

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

REPRESENTATION OF PARTIES

Claimant was initially represented by George C. Aucoin, Jr., of the law firm of Johnson and Aucoin, P.C., Evergreen, Colorado. After Mr. Aucoin withdrew as counsel for Claimant, Henry N. Mulvihill, Esq., Parker, Colorado assumed Claimant's representation.

Randolph Moore was represented by Armand Salese, Esq. of Salese & McCarthy, P.C., Tucson, Arizona.

Robert Bidwell and Merrill Lynch Pierce Fenner & Smith, Inc. ("Merrill Lynch") were represented by Tom Galbraith, Esq. and Ed Hendricks, Jr., Esq. of Meyer, Hendricks & Bivens, P.A., Phoenix, Arizona.

CASE INFORMATION

The Statement of Claim was filed on or about August 1, 2002. Submission Agreement of Claimant was signed on July 24, 2002. An Amended Statement of Claim adding Merrill Lynch as a Respondent was filed on March 20, 2003.

Statement of Answer was filed by Respondent Randolph Moore on or about October 14, 2002. Submission Agreement of Respondent Randolph Moore was signed on or about October 14, 2002 by Randolph Moore. Randolph Moore filed an Amended Statement of Claim and Counterclaim on March 31, 2003.

Claimant filed a Response to Randolph Moore's Counterclaim on April 22, 2003.

Statement of Answer was filed by Respondent Robert Bidwell on or about October 15, 2002. Submission Agreement of Respondent Robert Bidwell was signed on September 27, 2002 by Robert Bidwell.

Respondents Merrill Lynch and Robert Bidwell filed a Response to Claimant's Amended Statement of Claim on May 29, 2003.

CASE SUMMARY

Claimant's Statement of Claim alleges claims against Respondents Moore and Bidwell for breach of contract, negligence, failure to supervise, discretionary trading, breach of fiduciary duty, misrepresentation, omission of facts, unsuitability, fraud and bad faith. Claimant also alleges that Respondent Merrill Lynch failed to supervise Moore and Bidwell.

Respondents denied the allegations in the Statement of Claim and Amended Statement of Claim and asserted several affirmative defenses to those allegations. Respondent Moore filed a counterclaim against Claimant for breach of the implied covenant of good faith and fair dealing and interference with prospective economic advantage.

RELIEF REQUESTED

Claimant requested an award in the amount of \$230,000.00 in compensatory damages and \$692,113.14 in punitive damages, plus costs and attorneys' fees.

Respondents requested that the claims asserted against them be dismissed in their entirety and that they be awarded their costs and attorneys' fees. Respondents Moore and Bidwell requested the expungement of all reference to the above-captioned arbitration from Respondents Moore and Bidwell's registration records maintained by the NASD Central Registration Depository ("CRD").

OTHER ISSUES CONSIDERED & DECIDED

Shortly before the scheduled arbitration hearing, Claimant, on his own motion, through his counsel Henry N. Mulvihill, Esq., moved to dismiss all claims against all Respondents with prejudice, without payment of any monies. Respondent/Counterclaimant Moore agreed to dismiss his counterclaim against Claimant upon the execution of an affidavit from Claimant exonerating Moore and a stipulation to the entry of a Stipulated Award, which ordered the expungement of all references to the Claimant's claims and the arbitration from Moore's registration records maintained by the NASD Central Registration Depository. Respondents Merrill Lynch and Bidwell also agreed to Claimant's dismissal upon the execution of an affidavit from Claimant exonerating Bidwell and a stipulation to the entry of a Stipulated Award, which ordered the expungement of all references to

the Claimant's claims and the arbitration from Bidwell's registration records maintained by the NASD Central Registration Depository.

The parties filed with the NASD a Stipulation to Dismiss and to Expunge the Registered Representatives' Records along with a proposed Stipulated Award. Also, Claimant filed the affidavits attached at Tabs A and B related to the claims against Respondents. The First Affidavit relates to Claimant's claims against Moore and the Second Affidavit relates to Claimant's claims against Bidwell and they both relate to those asserted against Merrill Lynch through those current and former employees. The First Affidavit reflects the following:

1. My name is Larry A. Stanley.
2. I transferred my securities accounts at A.G. Edwards to Merrill Lynch=s Sierra Vista, Arizona, office in June of 2000.
3. The registered representative I first dealt with at Merrill Lynch was Randolph Moore.
4. When I opened my accounts at Merrill Lynch, I informed Randolph Moore that I had five years investment experience with stocks and bonds at AG Edwards and that I had a total net worth, excluding equity in my home and automobiles, of approximately \$1,120,000.00. I also informed Mr. Moore that my annual income was in excess of \$100,000.00.
5. At the time I opened my Merrill Lynch accounts I signed a Merrill Lynch AOption Information-Individual, Joint and Trust Accounts, Personal and Financial Data Furnished by Client@ form. Under the heading AInvestment Objectives/Type of Options Trading Desired@, the form indicated an investment strategy for me to Awrite covered calls@ for AIncome.@
6. Also at the same time, I completed and signed a Merrill Lynch background and risk assessment questionnaire. The completed questionnaire stated that I was not a conservative investor and wanted my investments to grow substantially in value over the long term and that I could be exposed to considerable risk. The questionnaire indicated that on Merrill Lynch=s risk scale of one (1) to seven (7), seven being the highest investment risk category, my risk category was six (6).
7. I became unhappy with Randolph Moore as my registered representative because of his unwillingness to accept cash deposits into my Merrill Lynch accounts and because of his office=s refusal to notarize a signature based upon my word that the signature was authentic. As a consequence in late October, 2000, I requested my accounts be transferred to the Tucson, Arizona, office of Merrill Lynch.

8. I did not transfer my Merrill Lynch accounts from Randolph Moore to Robert Bidwell, another Merrill Lynch registered representative, because of any wrongdoing on Mr. Moore's part.
9. The securities that Mr. Moore recommended were in line with my financial situation, investment objectives and stated risk tolerance. None of the investments recommended either for sale or purchase by Mr. Moore were unsuitable given my financial situation and other relevant circumstances. While Mr. Moore was my registered representative, I received monthly account statements and individual trade confirmations for each transaction that took place in my accounts as well as the amount of commissions I was charged for each transaction. I was not charged excessive commissions nor were the stocks in my account excessively traded.
10. Although I may have lost some monies in my accounts while Mr. Moore was my registered representative, as most people did who were invested in the stock market during this period of time, these losses were not the fault of Randolph Moore. I followed my investments carefully and understood and accepted the risks involved with my investment strategy. I understood completely that Mr. Moore could not guarantee success in the stock market.
11. Although my Statement of Claim in this matter alleged A...breach of contract, negligence, failure to supervise, discretionary trading, breech [sic] of fiduciary duty, misrepresentation, omission of facts, unsuitability, fraud and bad faith, I do not believe Randolph Moore engaged in any of the allegations afore stated, but rather acted in a competent and forthright manner as my registered representative for the few months he advised me at Merrill Lynch.
12. Permitting the information alleged in the Statement of Claim to remain in the CRD system for Randolph Moore would be harmful to his reputation and status in the securities business considering the defamatory nature of the information and because it is just and equitable I have directed my attorney to dismiss all claims against Mr. Moore in this matter and stipulate that all information be expunged from Mr. Moore's CRD record including all references to the above captioned arbitration from Mr. Moore's registration records maintained by the NASD Central Registration Depository.
13. The allegations I made in my Statement of Claim have caused negative information to appear on Mr. Moore's CRD. This defamatory information is harmful to Mr. Moore's reputation and status as a financial consultant in the securities industry. As such, I have directed my attorney to dismiss all claims against Mr. Moore in this matter and stipulate that all this information, including all references

to this arbitration, be expunged from Mr. Moore's registration record maintained by the NASD Central Registration Depository.

The Second Affidavit reflects the following:

1. I am over the age of 18 and am competent to complete and understand the contents of this affidavit.
2. In June 2000, I transferred my securities accounts from A. G. Edwards to the Merrill Lynch office in Sierra Vista, Arizona. The financial consultant I dealt with at that office was Randolph Moore. Attached hereto at Tab A is another affidavit that describes my experience at Merrill Lynch while my accounts were held at the Sierra Vista office.
3. In October 2000, for the reasons stated in the attached Affidavit, I requested that my accounts be moved to Merrill Lynch's Tucson office.
4. Robert Bidwell was assigned as my registered representative at Merrill Lynch's Tucson office, and remained my registered representative until I closed my accounts at Merrill Lynch.
5. During our initial meeting at the branch, Mr. Bidwell interviewed me regarding my financial situation, investment objectives, risk tolerances, investment experience and time horizons. After that interview, I signed the Account Profiles attached at Tab B. These profiles stated that I had significant trading experience, including options trading, that I had a 5 – 10 year time horizon regarding my investment goals, and that I wanted to be aggressive in all the accounts.
6. Once the paperwork was completed, the balances of my accounts were transferred to the Tucson office in November 2000.
7. In mid-November 2000, Mr. Bidwell and I met and we completed a Financial Foundation Questionnaire, a copy of which is attached hereto at Tab C. This information reaffirmed my goals and expectations as I had originally conveyed to Mr. Moore and Mr. Bidwell. This information also reaffirmed my desire for aggressive growth, as well as reaffirming my risk tolerance for aggressive growth.
8. We also discussed my Consults accounts, since I was not pleased with their performance. I reaffirmed to Mr. Bidwell my investment objectives and risk tolerances and decided to keep my money with those money managers as opposed to moving my money to different investments.

9. Over the next several months, Mr. Bidwell and I met several times to discuss the performance of my accounts. Although I frequently expressed my dissatisfaction with the market, after each of these discussions, I reaffirmed that my original goals and expectations for the accounts had not changed from my original discussions with Mr. Bidwell. After each of these discussions, it was my choice and decision to maintain the accounts as they were structured for aggressive growth. Mr. Bidwell never made any trades without my knowledge and consent, and further, several of the trades were unsolicited.
10. In July 2001, after again expressing my dissatisfaction with the market, Mr. Bidwell presented me with another investment plan. Under this new structure, the account portfolio would be comprised of 65% equity, 30% fixed income, and 5% cash. I chose not to follow this alternative, but to remain with the accounts as structured for aggressive growth. When I informed Mr. Bidwell of my decision to keep my accounts as structured, I also expressed interest in purchasing even more aggressive, volatile stocks than I had held up to that time. At this time, against the specific written and oral caution of Mr. Bidwell, I did begin to purchase such investments.
11. In August, 2001, I decided to transfer my accounts from Merrill Lynch. Since then, I have traded with three other financial advisors.
12. All of the investments Mr. Bidwell recommended to me were consistent with my financial situation, investment goals, and risk tolerance. I do not believe any of the recommendations made to me by Mr. Bidwell were unsuitable. I was presented with monthly statements showing the investment activity on each of my accounts, and I always received trade confirmations for each trade that was made.
13. Unfortunately for me, as well as millions of other investors, the time during which I had my accounts at Merrill Lynch proved to be one of the worse in stock market history. I understand now that my losses were not the result of Mr. Bidwell's wrongdoing or negligence, improper or unauthorized trading, or Merrill Lynch's failure to supervise. Rather, the losses I sustained were the result of uncontrollable factors in the stock market, combined with my decision to continue with an aggressive investment strategy. I accepted the risks I took, and as a result, now must accept the consequences of my decisions.
14. In my Statement of Claim, I alleged, among other things, breach of contract, negligence, failure to supervise, discretionary trading, unsuitability, fraud and bad faith. Robert Bidwell never engaged in any of this behavior while he was my advisor at Merrill Lynch. Mr. Bidwell always acted in a competent, professional, and forthright manner during the time he handled my accounts at Merrill Lynch.

As such, I will be withdrawing my complaint against Mr. Bidwell and Merrill Lynch that is currently lodged with the NASD, and will be dismissing the entire action with prejudice.

15. The allegations I made in my Statement of Claim have caused negative information to appear on Mr. Bidwell's CRD. This defamatory information is harmful to Mr. Bidwell's reputation and status as a financial consultant in the securities industry. As such, I have directed my attorney to dismiss all claims against Mr. Bidwell in this matter and stipulate that all this information, including all references to this arbitration, be expunged from Mr. Bidwell's registration record maintained by the NASD Central Registration Depository.

The parties have agreed that the Stipulated Award in this matter may be executed in counterpart copies. The parties have agreed to receive conformed copies of the award while the original(s) remain on file with the NASD Dispute Resolution (the "NASD").

AWARD

After considering the pleadings, the proposed Stipulated Award and the record in this matter, the Panel has decided in full and final resolution of the issue submitted for determination as follows:

1. The Panel recommends the expungement of all reference to the above-captioned arbitration from Respondents Randolph Moore's and Robert Bidwell's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notices to Members 99-09 and 99-54, Respondents Randolph Moore and Robert Bidwell must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.
2. That to the extent not specifically awarded or otherwise provided for above, all other claims and requests for relief by any party, particularly those asserted by Larry Stanley against Respondents, are denied with prejudice.
3. Other than the Forum Fees noted below, the parties shall each bear their own costs and expenses in connection with this proceeding, including but not limited to attorneys' fees.

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 = \$375.00

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(s) at the time of the event(s) giving rise to the dispute. In this matter, the member firm(s) is Merrill Lynch Pierce Fenner & Smith, Inc.

Member surcharge	\$	2,250.00
Pre-hearing process fee	\$	750.00
Hearing process fee	\$	4,000.00
Total Member Fees	\$	7,000.00

Forum Fees and Assessments

The Arbitration Panel 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. Fees associated with these proceedings are:

2	Pre-hearing session(s) with a single arbitrator	x	\$450.00	\$	900.00
	June 13, 2003	1	session		
	July 28, 2003	1	session		
1	Pre-hearing session(s) with Panel	x	\$1,200.00	\$	1,200.00
	March 12, 2003	1	session		
	Total Forum Fees			\$	2,100.00

The Arbitration Panel has assessed \$1,050.00 of the forum fees to Larry Allen Stanley.
The Arbitration Panel has assessed \$1,050.00 of the forum fees jointly and severally to Merrill Lynch Pierce Fenner & Smith, Inc., Robert W. Bidwell, and Randolph S. Moore.

Fee Summary

Claimant, Larry Allen Stanley, shall be and hereby is liable for:

Initial Filing Fee	= \$	375.00
<u>Forum Fees</u>	= \$	1,050.00
Total Fees	= \$	1,425.00
<u>Less payments</u>	= \$	-1,425.00
Balance Due NASD Dispute Resolution	= \$	0.00

Respondent, Merrill Lynch Pierce Fenner & Smith, Inc., shall be and hereby is liable for:

Member Fees	= \$	7,000.00
<u>Forum Fees</u>	= \$	0.00
Total Fees	= \$	7,000.00
<u>Less payments</u>	= \$	-7,000.00
Balance Due NASD Dispute Resolution	= \$	0.00

Respondents, Merrill Lynch Pierce Fenner & Smith, Inc., Robert W. Bidwell, and Randolph S. Moore, shall be and hereby are jointly and severally liable for:

<u>Forum Fees</u>	= \$	1,050.00
Total Fees	= \$	1,050.00
<u>Less payments</u>	= \$	-1,050.00
Balance Due NASD Dispute Resolution	= \$	0.00

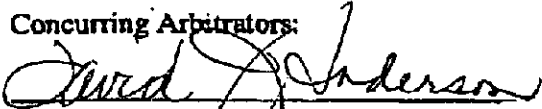
All balances are due to NASD Dispute Resolution

ARBITRATION PANEL

David J. Anderson - Public Arbitrator, Presiding Chair
Thomas A. Peterson, III - Public Arbitrator
Harry Hamilton Herts - Non-Public Arbitrator

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Concurring Arbitrators:


David I. Anderson
Public Arbitrator, Presiding Chair

Thomas A. Peterson, III
Public Arbitrator

Harry Hamilton Herts
Non-Public Arbitrator

March 15, 2004
Signature Date

Signature Date

Signature Date

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Concurring Arbitrators:



David J. Anderson
Public Arbitrator, Presiding Chair



Thomas A. Peterson, III
Public Arbitrator

Harry Hamilton Herts
Non-Public Arbitrator

Signature Date

3/15/2004

Signature Date

Signature Date

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Stipulated Award Page 10 of 10

Concurring Arbitrators:

David J. Anderson
Public Arbitrator, Presiding Chair

Signature Date

Thomas A. Peterson, III
Public Arbitrator

Signature Date

Harry Hamilton Herts
Harry Hamilton Herts
Non-Public Arbitrator

15 March 2004
Signature Date