

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Charles and Chad Hartman (Claimants) v. Merrill Lynch, Pierce, Fenner & Smith, Inc.
and Jeffrey C. Gonyo (Respondents)

Case Number: 02-04875

Hearing Site: Albany, New York

Nature of the Dispute: Customers v. Member and Associated Person.

REPRESENTATION OF PARTIES

Claimants Charles and Chad Hartman ("the Hartmans") hereinafter collectively referred to as "Claimants": Timothy J. Dennin, Esq., Timothy J. Dennin, P.C., New York, NY.

Respondents Merrill Lynch, Pierce, Fenner & Smith, Inc. ("Merrill Lynch") and Jeffrey C. Gonyo ("Gonyo") hereinafter collectively referred to as "Respondents": Lawrence D. Ross, Esq., Bressler, Amery & Ross, P.C., Morristown, NJ.

CASE INFORMATION

Statement of Claim filed on or about: August 19, 2002.

Claimants signed the Uniform Submission Agreement: July 28, 2002.

Joint Statement of Answer filed by Respondents on or about: December 13, 2002.

Respondent Merrill Lynch signed the Uniform Submission Agreement: February 18, 2003.

Respondent Gonyo signed the Uniform Submission Agreement: February 18, 2003.

CASE SUMMARY

Claimants asserted the following causes of action: breach of contract; breach of fiduciary duty; securities brokerage malpractice; negligence; negligent misrepresentation; common law fraud; unsuitability; and control person liability. Claimants' claim involved unspecified common stock.

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

RELIEF REQUESTED

Claimants requested compensatory damages with interest thereon; reasonable attorneys'

fees and expenses, including accountants' and expert fees; costs and disbursements; punitive damages; and such other and further relief as is just and proper.

Respondents requested that the Statement of Claim be dismissed with prejudice in its entirety; that the arbitrators enter an order expunging or striking this claim from Respondent Gonyo's permanent registration records maintained by the CRD; and costs and other further relief as they deem just and proper.

OTHER ISSUES CONSIDERED AND DECIDED

The parties have 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, the testimony and evidence presented at the hearing and the post-hearing submissions, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Claimants' claims are denied in their entirety.
2. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Jeffrey C. Gonyo'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, Respondent Jeffrey C. Gonyo must obtain confirmation from a court of competent jurisdiction before CRD will execute the expungement directive.
3. Any and all relief not specifically addressed herein, including punitive damages, 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 = \$250.00

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 at the time of the events giving rise to the dispute. Accordingly, Merrill Lynch, Pierce, Fenner & Smith, Inc. is a party.

Member surcharge = \$1,500.00

Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$2,200.00

Forum Fees and Assessments

The Panel has assessed forum fees for each session conducted. A session is any meeting between the parties and the arbitrators, including a pre-hearing conference with the arbitrators, that lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) Pre-hearing session with a single arbitrator @ \$450.00	= \$ 450.00
Pre-hearing conference: December 15, 2003 1 session	

One (1) Pre-hearing session with Panel @ \$1,000.00	= \$1,000.00
Pre-hearing conference: August 4, 2003 1 session	

Six (6) Hearing sessions @ \$1,000.00	= \$6,000.00
Hearing Dates: July 13, 2004 2 sessions	
July 14, 2004 2 sessions	
July 15, 2004 2 sessions	

Total Forum Fees	= \$7,450.00
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1. The Panel has assessed \$7,450.00 of the forum fees against Claimants.

Fee Summary

1. Claimants are jointly and severally liable for:

Initial Filing Fee	= \$ 250.00
<u>Forum Fees</u>	= \$7,450.00
Total Fees	= \$7,700.00
<u>Less payments</u>	= \$1,425.00
Balance Due NASD Dispute Resolution	= \$6,275.00

2. Respondent Merrill Lynch is solely liable for:

<u>Member Fees</u>	= \$4,450.00
Total Fees	= \$4,450.00
<u>Less payments</u>	= \$4,450.00
Balance Due NASD Dispute Resolution	= \$ 0.00

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

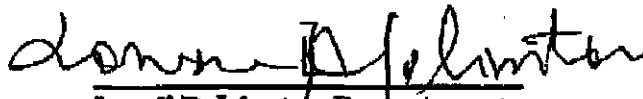
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ARBITRATION PANEL

Lowell D. Johnston, Esq.	-	Public Arbitrator, Presiding Chairperson
Donald R. Bluth	-	Public Arbitrator
Timothy A. Meigher	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

I, the undersigned arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument in which is my award.



Lowell D. Johnston, Esq.
Public Arbitrator, Presiding Chairperson



Signature Date

Donald R. Bluth
Public Arbitrator

Signature Date

Timothy A. Meigher
Non-Public Arbitrator

Signature Date

August 20, 2004
Date of Service (For NASD Dispute Resolution use only)

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Donald R. Bluth	-	Public Arbitrator
Timothy A. Meigher	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

I, the undersigned arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument in which is my award.

Lowell D. Johnston, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

Donald R. Bluth
Public Arbitrator

Signature Date



Timothy A. Meigher
Non-Public Arbitrator

8-19-04
Signature Date

August 20, 2004
Date of Service (For NASD Dispute Resolution use only)

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ARBITRATION PANEL

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Donald R. Bluth	-	Public Arbitrator
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Lowell D. Johnston, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

Donald R. Bluth
Donald R. Bluth
Public Arbitrator

8/19/04
Signature Date

Timothy A. Meigher
Non-Public Arbitrator

Signature Date

August 20, 2004
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