

ORIGINAL

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Jack Weinstein, Individually and as Beneficiary and Trustee of the North American Gold, Inc.
Defined Benefit Pension Plan, Claimants v. Merrill, Lynch, Pierce, Fenner, & Smith Incorporated
and Margaret Mary Lavecchia Baldwin, Respondents

Case Number: 02-04985

Hearing Site: Las Vegas, Nevada

REPRESENTATION OF PARTIES

For Claimants:

L. Joe Coppedge, Esq.
Kummer Kaempfer Bonner & Renshaw
Las Vegas, Nevada

For Respondents:

Wilfredo Hernandez, JR., Esq.
Morgan, Lewis & Bockius LLP
Los Angeles, CA

CASE INFORMATION

Statement of Claim filed: August 26, 2002

Claimants' Joint Uniform Submission Agreement filed: October 2, 2002

Joint Statement of Answer filed by Respondents: January 31, 2003

Respondent Merrill Lynch, Pierce, Fenner, & Smith Incorporated's Uniform Submission
Agreement signed: December 2, 2002

Respondent Margaret Mary Lavecchia Baldwin's Uniform Submission Agreement signed:
January 31, 2003

CASE SUMMARY

Claimants' Statement of Claim alleged breach of fiduciary duty, breach of duty to diversify, fraud, misrepresentation, unsuitability and failure to supervise, in the purchase and sale of unspecified securities.

Respondents denied the allegation of wrongdoing set forth in Claimants' Statement of Claim and asserted affirmative defenses.

RELIEF REQUESTED

Claimants requested \$250,000.00 in compensatory damages, punitive damages of no less than \$750,000.00, and attorney's fees.

Respondents requested dismissal of the Claimants' Statement of Claim in its entirety and requested an award of costs.

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 the evidence presented at the hearing the Panel decided in full and final resolution of the issues submitted for determination as follows:

- 1) Respondent Merrill Lynch, Pierce, Fenner, & Smith Incorporated is liable to and shall pay Claimants the sum of \$10,000.00 in compensatory damages.
- 2) The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Margaret Mary Lavecchia Baldwin'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, Respondent Margaret Mary Lavecchia Baldwin must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.
- 3) Claimants' request for punitive damages is denied.
- 4) The parties shall bear their respective costs, including attorney's fees.
- 5) 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	= \$ 375.00
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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 that gave rise to the dispute, claim, or controversy. Accordingly the member firm Merrill Lynch, Pierce, Fenner, & Smith Incorporated is a party and the following fees are assessed:

Member Surcharge	= \$ 2,250.00
Pre-Hearing Process Fee	= \$ 750.00
<u>Hearing Process Fee</u>	= \$ 4,000.00
Total Member Fees	= \$ 7,000.00

Forum Fees and Assessments

The Panel 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 Chair or the parties and the Panel. The following fees are assessed:

One (1) Pre-hearing conference session with the Panel @ \$1,200.00/session	= \$ 1,200.00
Pre-hearing conference: June 3, 2003 1 session	
Eight (8) Hearing sessions with the Panel @ \$1,200.00/session	= \$ 9,600.00
Pre-hearing conferences: September 8, 2003 2 sessions	
September 9, 2003 2 sessions	
September 10, 2003 2 sessions	
September 11, 2003 2 sessions	
Total Forum Fees	= \$ 10,800.00

- 1) The Panel assessed \$5,400.00 of the forum fees jointly and severally to Claimants
- 2) The Panel assessed \$5,400.00 of the forum fees to Respondent Merrill Lynch, Pierce, Fenner, & Smith Incorporated.

Fee Summary

1. Claimants are jointly and severally charged with the following fees and costs:

Initial Filing Fee	= \$ 375.00
Forum Fees	= \$ 5,400.00
Total fees	= \$ 5,775.00
Less payments	= \$ (1,575.00)
Balance Due NASD Dispute Resolution	= \$ 4,200.00

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

Member Fees	= \$ 7,000.00
Forum Fees	= \$ 5,400.00
Total fees	= \$12,400.00
Less payments	= \$ (7,000.00)
Balance Due NASD Dispute Resolution	= \$ 5,400.00

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.

ARBITRATION PANEL

Steven K. Lum, Esq.
Jordan H. Rodenstein, Esq.
David M. Seidner

Public Arbitrator, Presiding Chair
Public Arbitrator
Non-Public Arbitrator

Concurring Arbitrators' Signatures


STEVEN K. LUM, ESQ.
Public Arbitrator, Presiding Chair

9/30/03
Signature Date

JORDAN H. BODENSTEIN, ESQ.
Public Arbitrator

Signature Date

DAVID M. SEIDNER
Non-Public Arbitrator

Signature Date

10/01/03
Date of Service

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