

**Stipulated Award**  
**NASD Dispute Resolution**

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In the Matter of the Arbitration Between:

Michael and Rosemary Cassetta (Claimants) v. Merrill Lynch, Pierce, Fenner & Smith, Inc. and Anthony DeGrandi (Respondents)

Case Number: 02-05463

Hearing Site: New York, New York

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

**REPRESENTATION OF PARTIES**

Claimants Michael and Rosemary Cassetta ("the Cassetts") hereinafter collectively referred to as "Claimants": Jerome Olitt, Arbitration & Mediation Specialists, Inc., Stamford, CT.  
Previously represented by: Howard Silverman, BrokerArb, Bridgewater, CT.

Respondents, Merrill Lynch, Pierce, Fenner & Smith, Inc. ("Merrill Lynch") and Anthony DeGrandi ("DeGrandi") hereinafter collectively referred to as "Respondents": Christopher T. Freeze, Esq., previously Theodore A. Krebsbach, Esq., Krebsbach & Snyder, P.C., New York, New York.

**CASE INFORMATION**

Statement of Claim filed on or about: September 13, 2002.

Claimants signed the Uniform Submission Agreement: August 26, 2002.

Joint Statement of Answer filed by Respondents on or about: November 11, 2002.

Respondent DeGrandi signed the Uniform Submission Agreement: October 20, 2002.

Respondent Merrill Lynch signed the Uniform Submission Agreement: October 16, 2002.

**CASE SUMMARY**

Claimants asserted the following causes of action: unsuitability, failure to follow customer's directives and/or objectives, misrepresentation and deceit, failure to supervise, negligence, breach of contract, and breach of fiduciary duty. The causes of action relate to the purchase of 20,000 shares of Sun Healthcare Group, Inc. common stock.

Unless specifically admitted in its Answer, Respondents denied the allegations of wrongdoing set forth in the Statement of Claim and asserted the following: Claimant Michael Cassetta is an experienced investor with a documented investment history of purchasing large blocks of stock and engaging in short-term trading. Mr. Cassetta was contemporaneously trading large blocks of stock in his account at Prudential Securities, Inc. Claimants' Financial Advisor, Anthony

DeGrandi provided Mr. Cassetta with Merrill Lynch research regarding Sun Healthcare Group, Inc. Mr. Cassetta instructed Mr. DeGrandi to purchase 20,000 shares in his account. There was no commission incurred from the purchase, because Claimants maintained a fee based account, whereby fees were assessed based upon the value of the account irrespective of the activity in the account. Shortly after his purchase, the value of his shares declined significantly due to accounting irregularities uncovered at Sun Healthcare Group, Inc. Claimants' loss in Sun Healthcare Group, Inc. is the only investment at issue in the Statement of Claim. Anthony DeGrandi has not been the subject of any prior complaints.

### **RELIEF REQUESTED**

Claimants requested damages in the amount of \$150,000 and disgorgement of all commissions and fees generated by their accounts.

Respondents requested that Claimants' Statement of Claim be dismissed with prejudice; costs and reasonable attorneys' fees; that all references to this arbitration be expunged from the Central Registration Depository records of Respondent DeGrandi; and such other and further relief as is just and proper.

### **OTHER ISSUES CONSIDERED AND DECIDED**

On or about July 25, 2004, Claimants notified NASD Dispute Resolution that the parties settled this matter.

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. Claimants' claims are dismissed in their entirety.
2. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Anthony DeGrandi'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 Anthony DeGrandi must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

3. Any and all relief not specifically addressed herein 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 = \$300.00

#### **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. In this matter, Merrill Lynch, Pierce, Fenner & Smith, Inc. is a party.

Member Surcharge	= \$1,700.00
Pre-Hearing Process Fee	= \$ 750.00
<u>Hearing Process Fee</u>	<u>= \$2,750.00</u>
Total Member Fees	= \$5,200.00

#### **Adjournment Fees**

The following adjournment fees are assessed:

January 20-22, 2004, adjournment requested by Claimants = \$1,125.00

#### **Forum Fees and Assessments**

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

Two (2) Pre-hearing conference sessions with the Panel @ \$1,125.00/session	= \$2,250.00
Pre-hearing conferences: July 7, 2003 1 session	
November 20, 2003 1 session	
<u>Total Forum Fees</u>	<u>= \$2,250.00</u>

1. The Panel has assessed \$1,125.00 of the forum fees jointly and severally against Claimants.
2. The Panel has assessed \$1,125.00 of the forum fees jointly and severally against Respondents.

**Fee Summary**

1. Claimants are jointly and severally liable for:

Initial Filing Fee	= \$ 300.00
Adjournment Fee	= \$1,125.00
Forum Fees	= \$1,125.00
Total Fees	= \$2,550.00
<u>Less payments</u>	= \$1,425.00
Balance Due NASD Dispute Resolution	= \$1,125.00

2. Respondent Merrill Lynch is solely liable for:

Member Fees	= \$5,200.00
Total Fees	= \$5,200.00
<u>Less payments</u>	= \$5,200.00
Balance Due NASD Dispute Resolution	= \$ 0.00

3. Respondents are jointly and severally liable for:

Forum Fees	= \$1,125.00
Total Fees	= \$1,125.00
<u>Less payments</u>	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$1,125.00

All balances are due and payable to NASD Dispute Resolution

**Parties' Signatures**

  
Michael Cassetta  
Claimant

8/7/04  
Signature Date

  
Rosemary Cassetta  
Claimant

8-7-04  
Signature Date

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Anthony DeGrandi  
Respondent

\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Merrill Lynch, Pierce, Fenner & Smith, Inc.  
Respondent

\_\_\_\_\_  
Signature Date

**Parties' Signatures**

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Michael Cassetta  
Claimant

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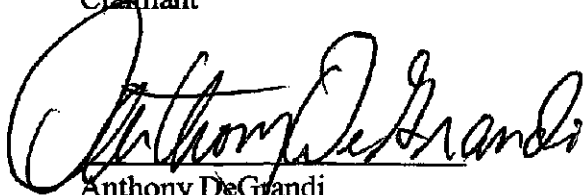
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Rosemary Cassetta  
Claimant

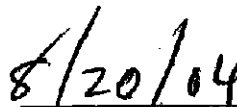
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Signature Date




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Anthony DeGrandi  
Respondent



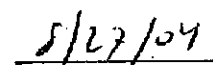
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Signature Date



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Merrill Lynch, Pierce, Fenner & Smith, Inc.  
Respondent



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Signature Date

**ARBITRATION PANEL**

June McLaughlin-Cheng, Esq.	-	Public Arbitrator, Presiding Chair
Thomas M. Crawford, Esq.	-	Public Arbitrator
David J. Pine, Esq.	-	Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

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June McLaughlin-Cheng, Esq.  
Public Arbitrator, Presiding Chair

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Signature Date

  
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Thomas M. Crawford, Esq.  
Public Arbitrator

11/03/04  
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Signature Date

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David J. Pine, Esq.  
Non-Public Arbitrator

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Signature Date

November 9, 2004  
Date of Service (For NASD office use only)

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David J. Pine, Esq.	-	Non-Public Arbitrator

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Public Arbitrator

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Signature Date



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David J. Pine, Esq.  
Non-Public Arbitrator

9/15/04  
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Signature Date

November 9, 2004  
Date of Service (For NASD office use only)