

AWARD
NASD Dispute Resolution

In the Matter of the Arbitration Between

Name of Claimant

Adrian Piperi, Sr.

and

Case Number: 02-05492
Hearing Site: Houston, Texas

Name of Respondent

Merrill Lynch Pierce Fenner & Smith

NATURE OF DISPUTE

Customer v. Member Firm

REPRESENTATION OF PARTIES

Adrian Piperi, Sr. ("**Claimant**") was represented by Reagan D. Pratt, Esq., of Clements, O'Neill, Pierce, Wilson & Fulkerson, LLP, of Houston, Texas.

Merrill Lynch Pierce Fenner & Smith ("**Respondent**") was represented by Linda Brooks, Esq., of Ogden, Gibson, White, Brooks & Longoria, LLP, of Houston, Texas.

CASE INFORMATION

The Statement of Claim was filed on or about September 16, 2002.

The Submission Agreement of Claimant, Adrian Piperi, Sr., was signed on or about August 15, 2002.

The Motion for More Definite Statement and, Subject Thereto, Answer to the Statement of Claim was filed by Respondent, Merrill Lynch Pierce Fenner & Smith, on or about November 13, 2002.

The Submission Agreement of Respondent, Merrill Lynch Pierce Fenner & Smith, was signed on or about October 22, 2002.

Claimant's Response to Respondent's Motion for a More Definite Statement was filed on or about November 27, 2002.

Respondent's Reply to Claimant's Response to Respondent's Motion for More Definite Statement was filed on or about December 24, 2002.

Claimant's First Supplement to His Statement of Claim was filed on or about January 21, 2004.

CASE SUMMARY

Claimant asserted the following causes of action: breach of fiduciary duty, omission of facts, manipulations, misrepresentations, negligence and breach of contract. The causes of action relate to the purchase of securities, including InfoSpace, INSP, and ML Focus 20.

Claimant alleges that the recommendations made by Merrill Lynch's internet research analysts ("the Internet Group") were wholly fraudulent. Claimant alleged that he relied on Merrill Lynch's recommendations for the stock purchases made in the account, as well as mutual fund purchases.

Unless specifically admitted in its Answer, Respondent, Merrill Lynch Pierce Fenner & Smith, denied the allegations made in the Statement of Claim and asserted affirmative defenses including the following: the causes of action asserted in Claimant's Statement of Claim are barred in whole, or in part, by the doctrines of waiver, estoppel, quasi estoppel, equitable estoppel and/or ratification; Claimant failed to state a claim upon which relief can be granted; Claimant assumed the risks of the investments; Claimant failed to mitigate his damages; all risks inherent in the investments at issue were fully disclosed to Claimant; and at all times relevant to the facts at issue, Merrill Lynch maintained an adequate and reasonable system of supervision and control over its employees, and at all times acted in good faith and did not directly or indirectly induce any act or acts constituting a violation or cause of action.

RELIEF REQUESTED

Claimant requested an award in the amount of:

Actual/Compensatory	\$250,000
Attorney's Fees	Unspecified
Other Costs	Unspecified
Other Monetary Relief	Unspecified
Interest	Unspecified
Punitive/Exemplary	Unspecified

Respondents requested that the claims asserted against them be denied in their entirety and that they be awarded their costs and attorneys' fees.

OTHER ISSUES CONSIDERED & 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. In either case, the parties have agreed to receive conformed copies of the award while the original(s) remain on file with NASD Dispute Resolution ("NASD").

AWARD

After considering the pleadings, the testimony, and the evidence presented at the hearing, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

- 1.) Claimant's claims, each and all, are hereby denied and dismissed with prejudice;
- 2.) Other than Forum Fees which are specified below, the parties shall each bear their own costs and expenses incurred in this matter;
- 3.) Any relief not specifically enumerated, including punitive damages and attorney fees, is hereby denied with prejudice.

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, the member firm is Merrill Lynch Pierce Fenner & Smith.

Member surcharge = \$1,700.00
Pre-hearing process fee = \$ 750.00
Hearing process fee = \$2,750.00

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 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 x \$450.00 = \$ 450.00
Pre-hearing conference: August 18, 2003 1 session

Three (3) Pre-hearing sessions with Panel x \$1125.00 = \$3,375.00
Pre-hearing conferences: April 23, 2003 1 session
June 18, 2003 1 session
October 23, 2003 1 session

Six (6) Hearing sessions x \$1125.00 = \$6,750.00
Hearing Dates: March 3, 2004 2 sessions
March 4, 2004 2 sessions
March 5, 2004 2 sessions

Total Forum Fees = \$10,575.00

The Arbitration Panel has assessed \$5,287.50 of the forum fees to Adrian Piperi, Sr.
The Arbitration Panel has assessed \$5,287.50 of the forum fees to Merrill Lynch Pierce Fenner & Smith.

Administrative Costs

Administrative costs are expenses incurred due to a request by a party for special services including, but not limited to, additional copies of arbitrator awards beyond those provided without charge, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

Requested service – CD of conference call \$ 30.00

FEE SUMMARY

Claimant, Adrian Piperi, Sr., is liable for:

Initial Filing Fee	= \$ 300.00
Administrative Costs	= \$ 15.00
Forum Fees	= \$ 5,287.50
Total Fees	= \$ 5,602.50
Less payments	= \$ 1,425.00
Balance Due NASD Dispute Resolution	= \$ 4,177.50

Respondent, Merrill Lynch Pierce Fenner & Smith, is liable for:

Member Fees	= \$ 5,200.00
Administrative Costs	= \$ 15.00
Forum Fees	= \$ 5,287.50
<hr/> Total Fees	<hr/> = \$10,502.50
Less payments	= \$ 5,200.00
<hr/> Balance Due NASD Dispute Resolution	<hr/> = \$ 5,302.50

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

ARBITRATION PANEL

William Edward Buck, JD - Public Arbitrator, Presiding Chair
Sharon Jevort Hemphill, Esq. - Public Arbitrator
Tim S. Hartzell - Non-Public Arbitrator

Concurring Arbitrators:

/s/ William Edward Buck, JD
William Edward Buck, JD
Public Arbitrator, Presiding Chair

March 16, 2004
Signature Date

/s/ Sharon Jevort Hemphill, Esq.
Sharon Jevort Hemphill, Esq.
Public Arbitrator

March 16, 2004
Signature Date

/s/ Tim S. Hartzell
Tim S. Hartzell
Non-Public Arbitrator

March 16, 2004
Signature Date

March 16, 2004
Date of Service (For NASD office use only)

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William Edward Buck, JD
William Edward Buck, JD
Public Arbitrator, Presiding Chair

3/16/04
Signature Date

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Public Arbitrator

Signature Date

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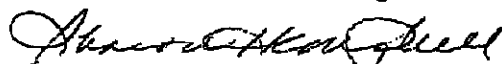
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3-16-04

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