

**STIPULATED AWARD
NASD Dispute Resolution**

In the Matter of the Arbitration Between

Name of Claimant

Ella Mary Lewis

and

02-05525
Phoenix, Arizona

Name of Respondents

Merrill Lynch Pierce Fenner & Smith, Inc.
Citigroup Global Markets, Inc. f/k/a Salomon Smith Barney Inc.
Kirk J. Gill
John S. Simonson

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

REPRESENTATION OF PARTIES

Ella Mary Lewis ("Claimant") was represented by Mark Lammers, Esq. of Anson, Lammers and Barkley, Tucson, Arizona.

Merrill Lynch Pierce Fenner & Smith, Inc. ("Respondent Merrill Lynch") was represented by Todd D. Brody, Esq. of Morgan Lewis & Bockius LLP, New York, New York.

Citigroup Global Markets, Inc. f/k/a Salomon Smith Barney Inc. ("Respondent Salomon") was represented by Alejandro Schwed, Esq., Citigroup Global Markets, Inc., New York, New York.

Kirk J. Gill ("Respondent Gill") and John S. Simonson ("Respondent Simonson") were represented by Armand Salese, Esq., Salese & McCarthy, P.C., Tucson, Arizona.

CASE INFORMATION

The Statement of Claim was filed on or about September 11, 2002. Submission Agreement of Claimant was signed on September 11, 2002.

Statement of Answer was filed by Respondent Merrill Lynch on or about July 1, 2003.

Statement of Answer was filed by Respondent Salomon Smith Barney on or about August 21, 2003.

Statement of Answer was filed by Respondents Kirk J. Gill and John Simonson on or about January 24, 2003. An Amended Response and Counterclaim was filed by Respondent Kirk J. Gill on or about July 28, 2003. ~~Submission Agreement of Respondent Kirk J. Gill was signed on July 28, 2003.~~

CASE SUMMARY

Claimant alleged that Respondent Merrill Lynch failed to supervise the activities of Respondents Gill and Simonson and that Respondents Gill and Simonson engaged in unsuitable and unauthorized investments, breach of contract and breach of fiduciary duties.

Unless specifically admitted, in their Statements of Answer/Responses, all Respondents denied the allegations of wrongdoing set forth in Claimant's Statement of Claim and asserted various affirmative defenses.

Respondent Gill asserted counterclaims against the Claimant for declaratory relief and expungement of the matter from his CRD record.

RELIEF REQUESTED

Claimant requested in her Statement of Claim compensatory damages and punitive damages in the amount not to exceed \$500,000.00 plus attorney's fees and costs.

Respondents Merrill Lynch and Salomon Smith Barney requested that Claimant's Statement of Claim be dismissed in its entirety and they be awarded attorney's fees and costs.

Respondents Gill and Simonson requested expungement of the matter from their CRD record.

OTHER ISSUES CONSIDERED & DECIDED

Respondent Merrill Lynch Pierce Fenner & Smith, Inc. Citigroup Global Markets, Inc. f/k/a Salomon Smith Barney Inc. Kirk J. Gill John S. Simonson did not file with the NASD Dispute Resolution a properly executed submission to arbitration but is required to submit to arbitration pursuant to Rule 10301 of the NASD Code of Arbitration Procedure (the "Code") and having answered the claim, appeared and testified at the hearing is bound by the determination of the arbitration panel on all issues submitted.

Claimant and Respondents filed with the NASD a Stipulation to Dismiss and Expunge the Registered Representative Record along with a proposed Stipulated Award.

The parties filed the Affidavit of Claimant which stated as follows:

"Ella Mary Lewis, being first duly sworn, upon her oath deposes and states as follows:

- ~~1. My name is Ella Mary Lewis, my date of birth is July 10, 1918.~~
2. I have been an investor in the stock market since 1970. I transferred my account at Kemper Securities to Merrill Lynch in February of 1994.
3. When I opened an account at Merrill Lynch I informed Mr. Gill that I had an income range of \$25,000 to \$30,000 annually from social security and investments. I also informed Mr. Gill that I had a net worth of approximately \$500,000.00. I also owned my own home which, at that time, was worth approximately \$300,000.00.
4. I informed Mr. Gill that my investment objectives were income and growth. I told Mr. Gill that I was willing to assume a moderate amount of risk to achieve my investment objectives.
5. At some point while my account was at Merrill Lynch, John Simonson became Mr. Gill's partner. However, Mr. Simonson never offered me any investment advice nor executed any trades in my account while at Merrill Lynch or at Salomon Smith Barney.
6. While Mr. Gill was managing my account from 1994 until February 15, 2001, when Mr. Gill left Merrill Lynch, I had a net total gain in my Merrill Lynch account of approximately \$125,000.00 to \$135,000.00.
7. The sale and purchase of securities by Mr. Gill were approved by me before they were executed. Mr. Gill fully explained any recommendations for the sale and/or purchase of the securities in my account. Additionally, the securities that Mr. Gill recommended were in line with my investment objectives of income and growth with moderate risk.
8. I received monthly account statements and individual trade confirmations for each transaction that took place in the account 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.
9. At no time did Mr. Gill make unsuitable or unauthorized investments and/or trades in my account. Nor did he ever engage in any unsuitable investment strategy in handling my assets.
10. Mr. Gill did not breach any contract or duties owed me, fiduciary or otherwise.
11. Mr. Gill and Mr. Simonson did not engage in any wrong doing regarding my accounts, either at Merrill Lynch or at Salomon Smith Barney.
12. I acknowledge that any losses which may have occurred while my account was at Salomon Smith Barney were not the fault of Mr. Gill or Mr. Simonson but of market forces which have caused most investors to lose money during these times.
13. I have voluntarily dismissed all my claims against Mr. Gill, Mr. Simonson and Salomon Smith Barney without them paying any monies in consideration thereof.
14. Permitting the information about this arbitration to remain in the CRD system/record for Kirk Gill and John Simonson would be harmful to their reputation and status in the securities business and because it is just and equitable, I have directed my

attorneys to dismiss all claims against them in this matter and agree and stipulate that a Stipulated Award be entered ordering that such information be expunged, deleted and erased from their CRD record."

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 Affidavit of the Claimant, the Stipulation to Dismiss and Expungement of Registered Representative Record, and proposed Stipulated Award, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Claimant's withdrawal of her claims is accepted and Respondents Gill and Simonson are dismissed from this matter, with prejudice.
2. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Kirk J. Gill'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 Kirk J. Gill must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.
3. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent John S. Simonson'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 John S. Simonson must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.
4. That to the extent not specifically awarded or otherwise provided for above, all other claims and requests for relief by any party hereto are denied with prejudice.
5. Other than the Forum Fees noted below, the parties shall each bear all other costs and expenses incurred by them in connection with this proceeding, including but not limited to attorneys fees, not specifically awarded or otherwise provided for above.

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
Counter claim/Cross claim/Third Party 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(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) are Merrill Lynch Pierce Fenner & Smith, Inc. and Citigroup Global Markets, Inc. f/k/a Salomon Smith Barney Inc.

Member surcharge	\$	1,700.00
Pre-hearing process fee	\$	750.00
Hearing process fee	\$	2,750.00
Total Member Fees	\$	5,200.00

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:

1 Pre-hearing session(s) with Panel	x	1,125.00	\$	1,125.00
	May 7, 2003	1 session		
Total Forum Fees			\$	1,125.00

The Arbitration Panel has assessed \$281.25 of the forum fees to Ella Mary Lewis.

The Arbitration Panel has assessed \$281.25 of the forum fees to Merrill Lynch Pierce Fenner & Smith, Inc.

The Arbitration Panel has assessed \$281.25 of the forum fees to Citigroup Global Markets, Inc. f/k/a Salomon Smith Barney Inc.

The Arbitration Panel has assessed \$281.25 of the forum fees to Kirk J. Gill.

Fee Summary

Claimant, Ella Mary Lewis, shall be and hereby is liable for:

Initial Filing Fee	= \$	300.00
Retained Hearing Session Deposit pursuant to Rule 10332(g)	= \$	843.75
<u>Forum Fees</u>	= \$	281.25
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	= \$	5,200.00
<u>Forum Fees</u>	= \$	281.25
Total Fees	= \$	5,481.25
<u>Less payments</u>	= \$	-5,481.25
Balance Due NASD Dispute Resolution	= \$	0.00

Respondent, Citigroup Global Markets, Inc. f/k/a Salomon Smith Barney Inc., shall be and hereby is liable for:

Member Fees	= \$	5,200.00
<u>Forum Fees</u>	= \$	281.25
Total Fees	= \$	5,481.25
<u>Less payments</u>	= \$	-5,481.25
Balance to be refunded by NASD Dispute Resolution	= \$	0.00

Respondent, Kirk J. Gill, shall be and hereby is liable for:

Counterclaim Filing Fee	= \$	250.00
<u>Forum Fees</u>	= \$	281.25
Total Fees	= \$	531.25
<u>Less payments</u>	= \$	-531.25
Balance Due NASD Dispute Resolution	= \$	0.00

All balances are due to NASD Dispute Resolution

ARBITRATION PANEL

~~George N. Roy, CPA - Public Arbitrator, Presiding Chair~~
Darrell P. Ladmirault - Public Arbitrator
Jeffrey Scott Dow - Non-Public Arbitrator

Concurring Arbitrators:

/s/ George N. Roy
George N. Roy, CPA
Public Arbitrator, Presiding Chair

May 28, 2004
Signature Date

/s/ Darrell P. Ladmirault
Darrell P. Ladmirault
Public Arbitrator

May 25, 2004
Signature Date

/s/ Jeffrey Scott Dow
Jeffrey Scott Dow
Non-Public Arbitrator

May 25, 2004
Signature Date

Date of Service: May 28, 2004

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George N. Roy, CPA - Public Arbitrator, Presiding Chair
Darrell F. Ladmirault - Public Arbitrator
Jeffrey Scott Dow - Non-Public Arbitrator

Concurring Arbitrators:

George N. Roy
George N. Roy, CPA
Public Arbitrator, Presiding Chair

5/28/04
Signature Date

Darrell F. Ladmirault
Darrell F. Ladmirault
Public Arbitrator

Signature Date

Jeffrey Scott Dow
Jeffrey Scott Dow
Non-Public Arbitrator

Signature Date

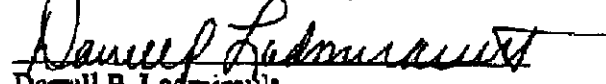
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Public Arbitrator, Presiding Chair


Darrell P. Ladmirault
Public Arbitrator

Signature Date

5/25/04
Signature Date

Jeffrey Scott Dow
Non-Public Arbitrator

Signature Date

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Public Arbitrator, Presiding Chair

Signature Date

Darrell P. Ladmirault
Public Arbitrator

Signature Date

Jeffrey Scott Dow
Non-Public Arbitrator

5/25/04
Signature Date