

**STIPULATED AWARD
NASD Dispute Resolution**

In the Matter of the Arbitration Between

Name of Claimant

Jules H. Bohn

and

Case Number: 02-05631
Hearing Site: Houston, Texas

Names of Respondents

Merrill Lynch, Pierce, Fenner & Smith, Inc. and
Kevin B. Murphy

NATURE OF CASE

Customer v. Member and Associated Person

REPRESENTATION OF PARTIES

Jules H. Bohn ("Claimant") was represented by Clarence F. Kendall II, Esq., Clarence F. Kendall, II & Associates, P.C., Houston, Texas.

Merrill Lynch, Pierce, Fenner & Smith, Inc., ("Merrill Lynch") and Kevin B. Murphy ("Murphy"), hereinafter collectively referred to as "Respondents," were represented by John Kincade, Esq., Winstead Sechrest & Minick, P.C., Houston, Texas.

CASE INFORMATION

The Statement of Claim was filed on or about September 26, 2002. The Uniform Submission Agreement of Claimant was signed on or about September 17, 2002.

Respondent, Merrill Lynch, filed a Statement of Answer and Motion to Dismiss on or about November 19, 2002.

Respondent, Murphy, filed a Statement of Answer and Motion to Dismiss on or about April 16, 2003.

Respondents, Merrill Lynch and Murphy, failed to submit Uniform Submission Agreements.

CASE SUMMARY

Claimant asserted the following causes of action: negligence and failure to execute. The causes of actions related to Claimant's allegations that Respondents wrongfully recommended and effectuated the purchase of various unspecified securities.

Unless specifically admitted in their Answer, Respondents, Merrill Lynch and Murphy, denied the allegations made in the Statement of Claim and asserted the following defenses: Claimant failed to state a claim upon which relief can be granted; Claimant failed to particularize facts that establish Respondents' liability; Claimant failed to follow up in a timely manner on the alleged execution orders; any losses Claimant suffered were caused by market conditions outside Respondents' control; Respondents acted properly and in good faith; and any losses were caused by Claimant's own negligence.

RELIEF REQUESTED

Claimant requested an award of approximately \$48,000.00 in compensatory damages, plus interests in the amount of \$4, 800.00, attorneys' fees in the amount of \$ 10, 000.00, costs and any other relief the panel deemed appropriate.

Respondents, Merrill Lynch and Murphy, requested that the claims asserted against them be dismissed with prejudice, and that they be awarded reimbursement of all legal fees, costs and expenses. Respondents also requested the expungement of all references to this arbitration from Respondent Murphy's permanent registration records maintained by the NASD Central Registration Depository (CRD).

OTHER ISSUES CONSIDERED & DECIDED

Respondents, Merrill Lynch, Pierce, Fenner & Smith, Inc. and Kevin B Murphy, did not file with NASD Dispute Resolution properly executed submissions to arbitration but are required to submit to arbitration pursuant to Rule 10301 of the NASD Code of Arbitration Procedure (the "Code") and having answered the claim, and appeared and testified through counsel at the pre-hearing conference, are bound by the determination of the arbitration panel on all issues submitted.

This case settled and Claimant, Jules Bohn, and Respondents, Merrill Lynch, Pierce, Fenner & Smith, Inc., and Kevin B. Murphy, have executed a Settlement Agreement and Release.

This Stipulated Award was prepared, in part, based on a proposed award document submitted by Respondents, Merrill Lynch, Pierce, Fenner & Smith, Inc., and Kevin B. Murphy.

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 originals remain on file with the NASD Dispute Resolution (the "NASD").

AWARD

After considering the parties' submissions and representations, but without making any findings of fact or conclusions of law, the undersigned arbitrators order as follows:

- 1.) Claimant's claims against Respondents, Merrill Lynch, Pierce, Fenner & Smith, Inc., and Kevin B. Murphy are hereby dismissed with prejudice pursuant to the parties' Settlement Agreement;
- 2.) The Panel recommends that expungement of all references to the above-captioned arbitration from Respondent, Kevin B. Murphy'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, Kevin B. Murphy, must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive;
- 3.) Other than Forum Fees, which are specified below, the parties shall each bear their own costs and expenses incurred in this matter; and.
- 4.) 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	= \$ 175.00
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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, Inc.

Member surcharge	= \$ 875.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$1,000.00

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 Panel	x \$ 600.00	= \$ 600.00
Pre-hearing Conference: April 7, 2003	1 session	
Total Forum Fees		= \$ 600.00

Pursuant to the NASD Code of Arbitration Procedure, Rule 10332(g), NASD retained the hearing session deposit of \$600.

The Arbitration Panel has assessed \$300.00 of the forum fees against Claimant, Jules Bohn.

The Arbitration Panel has assessed \$300.00 of the forum fees jointly and severally against Respondents, Merrill Lynch, Pierce, Fenner and Smith, Inc. and Kevin B. Murphy.

Fee Summary

Claimant, Jules Bohn, is liable for:

Initial Filing Fee	= \$ 175.00
Hearing Session Deposit Retention	= \$ 300.00
Forum Fees	= \$ 300.00
Total Fees	= \$ 775.00
Less payments	= \$ 775.00
Balance Due NASD Dispute Resolution	= \$ 0.00

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

Member Fees	= \$2,625.00
Total Fees	= \$2,625.00
Less payments	= \$2,625.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondents, Merrill Lynch, Pierce, Fenner & Smith, Inc. and Kevin B. Murphy are jointly and severally liable for:

Forum Fees	= \$ 300.00
Total Fees	= \$ 300.00
Less payments	= \$1,450.00
Balance Refunded by NASD Dispute Resolution	= \$1,150.00

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

ARBITRATION PANEL

James M. Kendrick, JD - Public Arbitrator, Presiding Chair
Sharon Jeverth Hemphill - Public Arbitrator
Morris Rubin - Non-Public Arbitrator

Concurring Arbitrators:

/s/ James M. Kendrick, JD
James M. Kendrick, JD
Public Arbitrator, Presiding Chairperson

September 15, 2004
Signature Date

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

September 15, 2004
Signature Date

/s/ Morris Rubin
Morris Rubin
Non-Public Arbitrator


September 15, 2004
Signature Date

September 15, 2004
Date of Service (For NASD office use only)

ARBITRATION PANEL

James M. Kendrick, JD - Public Arbitrator, Presiding Chair
Sharon Jevett Hemphill - Public Arbitrator
Morris Rubin - Non-Public Arbitrator

Concurring Arbitrators:


James M. Kendrick, JD
Public Arbitrator, Presiding Chairperson

9-15-04
Signature Date

Sharon Jevett Hemphill, Esq.
Public Arbitrator

Signature Date

Morris Rubin
Non-Public Arbitrator

Signature Date

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ARBITRATION PANEL

James M. Kendrick, JD - Public Arbitrator, Presiding Chair
Sharon Jevert Hemphill - Public Arbitrator
Morris Rubin - Non-Public Arbitrator

Concurring Arbitrators:

James M. Kendrick, JD
Public Arbitrator, Presiding Chairperson

Signature Date



Sharon Jevert Hemphill, Esq.
Public Arbitrator

9-15-24

Signature Date

Morris Rubin
Non-Public Arbitrator

Signature Date

Date of Service (For NASD office use only)

ARBITRATION PANEL

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Sharon Jevett Hemphill - Public Arbitrator
Morris Rubin - Non-Public Arbitrator

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Public Arbitrator, Presiding Chairperson

Signature Date

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Public Arbitrator

Signature Date

Morris Rubin
Non-Public Arbitrator

Signature Date

Date of Service (For NASD office use only)

9-15-04