

Stipulated Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Richard Orlandi (Claimant) v. Merrill Lynch, Pierce, Fenner & Smith, Inc., Donald Pizzutello,
and Michael Pizzutello (Respondents)

Case Number: 02-05864

Hearing Site: New York, New York

Nature of the Dispute: Customer v. Member and Associated Persons.

REPRESENTATION OF PARTIES

Claimant Richard Orlandi ("Orlandi") hereinafter referred to as "Claimant": Bruce D. Oakes, Esq., Oakes & Fosher, LLC, St. Louis, MO. Previously represented by: Bruce D. Oakes, Esq., Drakesmith, Burke, Linson, & Briscoe, LLP, St. Charles, MO.

Respondents Merrill Lynch, Pierce, Fenner & Smith, Inc. ("MLPFS"), Donald Pizzutello ("D. Pizzutello"), and Michael Pizzutello ("M. Pizzutello") hereinafter collectively referred to as "Respondents": Matthew C. Plant, Esq., previously Lawrence E. Fenster, Esq., Bressler, Amery & Ross, P.C., New York, NY.

CASE INFORMATION

Statement of Claim filed on or about: October 1, 2002.

Claimant signed the Uniform Submission Agreement: August 5, 2002.

Joint Statement of Answer filed by Respondents on or about: December 24, 2002.

MLPFS signed the Uniform Submission Agreement: January 15, 2003.

D. Pizzutello signed the Uniform Submission Agreement: January 17, 2003.

M. Pizzutello signed the Uniform Submission Agreement: January 17, 2003.

CASE SUMMARY

Claimant asserted the following causes of action: unsuitability; churning; misuse of margin; misrepresentations; material omissions; negligent supervision; and breach of fiduciary duty. The causes of action relate to options.

Unless specifically admitted in its Answer, Respondents denied the allegations of wrongdoing set forth in the Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

Claimant requested compensatory damages in the amount of \$13,000,000.00 (thirteen million dollars) and punitive damages in the amount of \$50,000,000.00 (fifty million dollars).

Respondents requested that Claimant's Statement of Claim be dismissed, with prejudice, in its entirety and that the Panel of Arbitrators expunge the CRD registration files of Respondents D. Pizzutello and M. Pizzutello, and award other further relief as the Panel of Arbitrators deems just and proper.

OTHER ISSUES CONSIDERED AND DECIDED

On or about April 15, 2004, Claimant notified NASD Dispute Resolution that the parties had settled their dispute. Claimant and Respondent MLPFS have entered into a confidential settlement agreement.

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 an entry of an award, the written stipulation thereto, the Panel grants the motion and enters this award granting the following relief:

1. The Panel finds that Claimant's Statement of Claim fails to state a claim against Respondents Donald Pizzutello and Michael Pizzutello, and therefore, recommends the expungement of all reference to the above captioned arbitration from Respondent Donald Pizzutello's and Michael Pizzutello'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, Respondents Donald Pizzutello and Michael Pizzutello must obtain confirmation from a court of competent jurisdiction before CRD will execute the expungement directive.
2. Each party shall bear its own costs and expenses associated with the above-referenced arbitration.
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 = \$ 600.00

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 persons 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	= \$ 3,750.00
Pre-Hearing Process Fee	= \$ 750.00
<u>Hearing Process Fee</u>	<u>= \$ 5,500.00</u>
Total Member Fees	= \$10,000.00

Adjournment Fees

The following adjournment fees are assessed:

October 20-23, 2003, adjournment requested by Claimant	= \$600.00
October 20-23, 2003, adjournment requested by Respondents	= \$600.00

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:

One (1) Pre-hearing conference session with a single arbitrator @ \$450.00/session = \$ 450.00

Pre-hearing conference: October 15, 2003 1 session

Four (4) Pre-hearing conference sessions with the Panel @ \$1,200.00/session = \$4,800.00

Pre-hearing conferences:	April 10, 2003	1 session
	June 26, 2003	1 session
	August 12, 2003	1 session
	March 26, 2004	1 session

Total Forum Fees	= \$5,250.00
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The Panel has determined that the forum fees for the Pre-hearing conferences held on October 15, 2003, April 10, 2003, June 26, 2003, and August 12, 2003 are to be assessed 50% against Claimant and 50% jointly and severally against Respondents.

The Panel has determined that the forum fees for the Pre-hearing conference held on March 26, 2004 should be assessed jointly and severally against Respondents. Therefore, the forum fees are as follows:

1. The Panel has assessed \$2,025.00 of the forum fees against Claimant.
2. The Panel has assessed \$3,225.00 of the forum fees jointly and severally against Respondents.

Fee Summary

1. Claimant is solely liable for:

Initial Filing Fee	= \$ 600.00
Adjournment Fee	= \$ 600.00
<u>Forum Fees</u>	<u>= \$ 2,025.00</u>
Total Fees	= \$ 3,225.00
<u>Less payments</u>	<u>= \$ 1,800.00</u>
Balance Due NASD Dispute Resolution	= \$ 1,425.00

2. MLPFS is solely liable for:

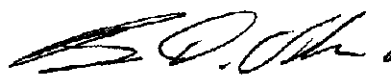
Member Fees	= \$10,000.00
Total Fees	= \$10,000.00
<u>Less payments</u>	<u>= \$10,000.00</u>
Balance Due NASD Dispute Resolution	= \$ 0.00

3. Respondents are jointly and severally liable for:

Adjournment Fee	= \$ 600.00
<u>Forum Fees</u>	<u>= \$ 3,225.00</u>
Total Fees	= \$ 3,825.00
<u>Less payments</u>	<u>= \$ 0.00</u>
Balance Due NASD Dispute Resolution	= \$ 3,825.00

All balances are due and payable to NASD Dispute Resolution

Parties' Signatures

 attorney for Richard Orlandi

Richard M. Orlandi
Claimant

1/31/2005
Signature Date

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

Signature Date

Donald Pizzutello
Respondent

Signature Date

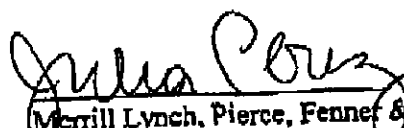
Michael Pizzutello
Respondent

Signature Date

Parties' Signatures

Richard M. Orlandi
Claimant

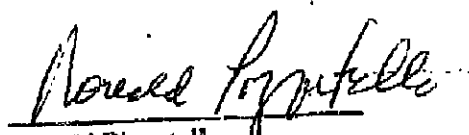
Signature Date



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

12/21/04

Signature Date



Donald Pizzutello
Respondent

12/21/04

Signature Date



Michael Pizzutello
Respondent

12/21/04

Signature Date

ARBITRATION PANEL

Arnold O. Flicker, Esq.	-	Public Arbitrator, Presiding Chair
Paul Schiffres	-	Public Arbitrator
Todd G. Everts	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

Arnold O. Flicker, Esq.
Arnold O. Flicker, Esq.
Public Arbitrator, Presiding Chair

Signature Date

Paul Schiffres
Public Arbitrator

Signature Date

Todd G. Everts
Non-Public Arbitrator

Signature Date

March 22, 2005
Date of Service (For NASD office use only)

ARBITRATION PANEL

Arnold O. Flicker, Esq.	-	Public Arbitrator, Presiding Chair
Paul Schiffres	-	Public Arbitrator
Todd G. Everts	-	Non-Public Arbitrator

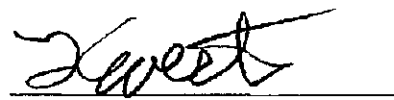
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Signature Date

Paul Schiffres
Public Arbitrator

Signature Date



Todd G. Everts
Non-Public Arbitrator



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Concurring Arbitrators' Signatures

Arnold O. Flicker, Esq.
Public Arbitrator, Presiding Chair

Signature Date

Paul Schiffres
Paul Schiffres
Public Arbitrator

02/27/2005
Signature Date

Todd G. Everts
Non-Public Arbitrator

Signature Date

March 22, 2005
Date of Service (For NASD office use only)