

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Darla Kerestesy and Louis Kerestesy (Claimants) v. Merrill Lynch Pierce Fenner & Smith, Inc., and Janet Vettel (Respondents)

Case Number: 02-05912

Hearing Site: Cleveland, OH

REPRESENTATION OF PARTIES

Claimants, Darla Kerestesy and Louis Kerestesy ("Kerestesy"), hereinafter collectively referred to as "Claimants": Brian Green, Esq., Shapero, McGinnis, Green, Tater & Michel, Beachwood, OH.

Respondents, Merrill Lynch Pierce Fenner & Smith, Inc. ("Merrill") and Janet Vettel ("Vettel"), hereinafter collectively referred to as "Respondents": Richard Kelly, Esq., Merrill Lynch Pierce Fenner & Smith, Inc., New York, NY.

CASE INFORMATION

Statement of Claim filed on or about: October 18, 2002.

Claimants signed the Uniform Submission Agreement: September 20, 2002.

Joint Statement of Answer filed by Respondents on or about: December 9, 2002.

Respondent Merrill signed the Uniform Submission Agreement: December 9, 2002.

Respondent Vettel did not sign the Uniform Submission Agreement.

CASE SUMMARY

Claimants asserted the following causes of action: breach of fiduciary duty, unauthorized trading, suitability, and negligence. Claimants claim involves the following securities: MITTS stock.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

Claimants requested:

1. Compensatory Damages in excess of \$20,541.67;
2. Punitive Damages in the amount of \$25,000.00.

Respondents requested that the claim be denied in all respects, that all costs of this proceeding be assessed against the Claimants and that all references to this case be expunged from Respondent Vettel's registration records:

OTHER ISSUES CONSIDERED AND DECIDED

Respondent Vettel did not file with NASD Dispute Resolution a properly executed Uniform Submission Agreement but is required to submit to arbitration pursuant to the Code and having answered the claim, appeared and testified at the hearing is bound by the determination of the Panel on all issues submitted.

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.

AWARD

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

1. Claimants claims are hereby denied in their entirety.
2. Any and all relief not specifically addressed herein, including punitive damages is denied.
3. Respondent Vettel's Request for Expungement of her registration records 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	= \$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 firms that employed the associated person at the time of the events giving rise to the dispute. Accordingly, Merrill Lynch Pierce Fenner & Smith is a party.

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

Forum Fees and Assessments

The Arbitrator has assessed forum fees for each session conducted. A session is any meeting between the parties and the arbitrator including a pre-hearing conference with the arbitrator, that lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) Pre-hearing session with a single arbitrator @ \$450.00 = \$ 450.00
Pre-hearing conference: March 19, 2003 1 session

Two (2) Hearing sessions @ \$450.00 = \$ 900.00
Hearing Date: July 22, 2003 2 sessions

Total Forum Fees = \$1,350.00

1. The Arbitrator has assessed \$675.00 of the forum fees, jointly and severally, against Claimants.
2. The Arbitrator has assessed \$675.00 of the forum fees, jointly and severally, against Respondents.

Fee Summary

1. Claimants are solely liable for:

Initial Filing Fee	= \$ 175.00
<u>Forum Fees</u>	<u>= \$ 675.00</u>
Total Fees	= \$ 850.00
<u>Less payments</u>	<u>= \$ 625.00</u>
Balance Due NASD Dispute Resolution	= \$ 225.00

2. Respondent Merrill is solely liable for:

<u>Member Fees</u>	<u>= \$2,625.00</u>
Total Fees	= \$2,625.00
<u>Less payments</u>	<u>= \$2,700.00</u>
Refund Due to Merrill	= \$ 75.00

3. Respondents are jointly and severally liable for:

<u>Forum Fees</u>	<u>= \$ 675.00</u>
Total Fees	= \$ 675.00
<u>Less payments</u>	<u>= \$ 675.00</u>
Balance Due NASD Dispute Resolution	= \$ 0.00

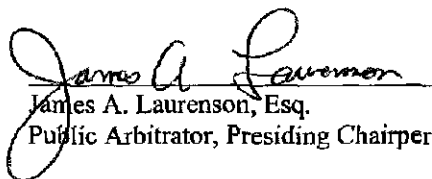
ARBITRATION PANEL

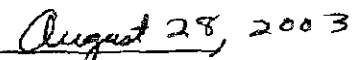
James A. Laurenson, Esq.

- Public Arbitrator, Presiding Chair

Arbitrators' Signature

I, the undersigned arbitrator, do hereby affirm, that I am the individual described herein
and who executed this instrument is which is my award.


James A. Laurenson, Esq.
Public Arbitrator, Presiding Chairperson


Signature Date

September 4, 2003

Date of Service (For NASD Dispute Resolution use only)