

**Stipulated Award
NASD Dispute Resolution**

In the Matter of the Arbitration Between:

Gary Bizzell and Annie Jacob, Claimants v. Merrill Lynch, Pierce, Fenner & Smith, Inc., and
Andrew C. Anagnostou, Respondents

Case Number: 02-06034

Hearing Site: San Francisco, California

Nature of the Dispute: Customers v. Member and Associated Person

REPRESENTATION OF PARTIES

For Claimants:

Brett A. Alcala, Esq.
Alcala Law Firm
San Mateo, California

For Respondents:

Dale E. Barnes, Esq.
Ursula M. Husby, Esq.
Bingham McCutchen LLP
San Francisco, California

CASE INFORMATION

Statement of Claim filed: October 9, 2002

First Amended Statement of Claim filed: December 4, 2002

Claimant Gary Bizzell's Uniform Submission Agreement signed: October 1, 2002

Claimant Annie Jacob's Uniform Submission Agreement signed: October 1, 2002

Joint Statement of Answer to First Amended Statement of Claim of Annie Jacob filed by
Respondents: January 10, 2003

Joint Statement of Answer to First Amended Statement of Claim of Gary Bizzell filed by
Respondents: January 10, 2003

Respondent Merrill Lynch, Pierce, Fenner & Smith, Inc.'s Uniform Submission Agreement
signed: January 8, 2003

Respondent Andrew C. Anagnostou's Uniform Submission Agreement signed: January 8, 2003

CASE SUMMARY

Claimants' Initial Statement of Claim and First Amended Statement of Claim alleged failure to supervise, breach of contract, negligence, negligent misrepresentation, breach of fiduciary duty, and breach of the implied covenant of good faith and fair dealing. Claimants' allegations involved Ariba, Adobe Systems, Check Point Software, Juniper Networks, Network Appliance, SDL, Siebel Systems technology stocks and other unspecified securities.

Respondents denied the allegations of wrongdoing set forth in the Claimants' Initial and First Amended Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

In Claimants' Initial Statement of Claim and First Amended Statement of Claim, Claimant Gary Bizzell requested compensatory damages in the amount of \$1,516,542.00 and Claimant Annie Jacob requested compensatory damages in the amount of \$ 721,674.00. Additionally, Claimants Gary Bizzell and Annie Jacob requested punitive damages in the amount of \$1,000,000.00, pre-award and post-award interest, and costs, including attorney's fees.

Respondents requested dismissal of the Claimants' Initial and First Amended Statement of Claim in their entirety and expungement of all reference to the above captioned arbitration from Respondent Andrew C. Anagnostou's registration records maintained by the NASD Central Registration Depository ("CRD").

OTHER ISSUES CONSIDERED AND DECIDED

On October 28, 2002, Claimant Gary Bizell and Claimants' counsel signed a Waiver Agreement expressly waiving any and all rights and benefits under California Civil Code Section 1542 and the California Ethical Standards for Neutral Arbitrators.

On October 31, 2002, Claimant Annie Jacob and Claimants' counsel signed a Waiver Agreement expressly waiving any and all rights and benefits under California Civil Code Section 1542 and the California Ethical Standards for Neutral Arbitrators.

On February 4, 2003, Respondents' counsel signed a Waiver Agreement on behalf of Respondents Merrill Lynch, Pierce, Fenner & Smith, Inc. and Andrew C. Anagnostou expressly waiving any and all rights and benefits under California Civil Code Section 1542 and the California Ethical Standards for Neutral Arbitrators.

On December 4, 2003, Claimants filed a First Amended Statement of Claim pursuant to the

NASD Code of Arbitration Procedure Rule 10328(a).

The parties agreed that the Stipulated Award in this matter may be executed in counterpart copies or that a handwritten, signed Stipulated Award may be entered.

AWARD

After considering the pleadings and the Parties' request for this Stipulated Award, the Panel decided in full and final resolution of the issues submitted for determination as follows:

1. Claimants and Respondents have entered into a confidential settlement agreement.
2. The arbitration claim is dismissed with prejudice against all Respondents.
3. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Andrew C. Anagnostou's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 99-09, Respondent Andrew C. Anagnostou must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Dispute Resolution received or will collect the non-refundable filing fees for each claim as follows:

Initial claim filing fee	= \$ 600.00
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Member Fees

Member fees are assessed to each member firm that is either a party in the matter or an employer of a respondent associated person at the time of the events that gave rise to the dispute, claim, or controversy. Accordingly, the member firm Merrill Lynch Pierce Fenner & Smith, Inc. is a party and the following fees are assessed:

Member Surcharge	= \$ 2,800.00
Pre-Hearing Process Fee	= \$ 750.00
<u>Hearing Process Fee</u>	= \$ 5,000.00
Total Member Fees	= \$ 8,550.00

Forum Fees and Assessments

The Panel assessed a forum fee for each pre-hearing conference or hearing session conducted. A pre-hearing conference and hearing session is any meeting between the parties and the Chair/Panel. The following fees are assessed:

One (1) Pre-hearing conference session with a single arbitrator @ \$ 450.00/session	= \$ 450.00
Pre-hearing conference: October 15, 2003 1 session	

Three (3) Pre-hearing conference sessions with the Panel @ \$ 1,200.00/session	= \$ 3,600.00
Pre-hearing conferences: April 9, 2003 1 session	
April 23, 2003 1 session	
May 29, 2003 1 session	

Total Forum Fees	= \$ 4,050.00
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1. The Panel assessed \$ 2,025.00 of the forum fees jointly and severally to Claimants Gary Bizzell and Annie Jacob.
2. The Panel assessed \$ 2,025.00 of the forum fees jointly and severally to Respondents Merrill Lynch, Pierce, Fenner & Smith, Inc. and Andrew C. Anagnostou.

Fee Summary

1. Claimants are charged jointly and severally with the following fees and costs:

Initial Filing Fee	= \$ 600.00
Forum Fees	= \$ 2,025.00
Total Fees	= \$ 2,625.00
Less payments	= \$(1,800.00)
Balance Due NASD Dispute Resolution	= \$ 825.00

2. Respondent Merrill Lynch, Pierce, Fenner & Smith, Inc. is charged with the following fees and costs:

Member Fees	= \$ 8,550.00
Less payments	= \$(8,550.00)
Balance Due NASD Dispute Resolution	= \$ 0.00

3. Respondents Merrill Lynch, Pierce, Fenner & Smith, Inc. and Andrew C. Anagnostou are charged jointly and severally with the following fees and costs:

Forum Fees	= \$ 2,025.00
Less payments	= \$ (0.00)
Balance Due NASD Dispute Resolution	= \$ 2,025.00

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

Parties' Signatures

Brett A. Alcala, Esq.
on behalf of Gary Bizzell and Annie Jacob

Signature Date

Dale E. Barnes, Esq.
on behalf Merrill Lynch, Pierce, Fenner & Smith, Inc.
and Andrew C. Anagnostou

Signature Date

ARBITRATION PANEL

Henry H. Hersch, Esq.	-	Public, Presiding Chair
James W. Reid	-	Public Arbitrator
Nicholas J. Caputo	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

Henry H. Hersch, Esq.
Chair, Public Arbitrator

Signature Date

Nicholas J. Caputo
Non-Public Arbitrator

Signature Date

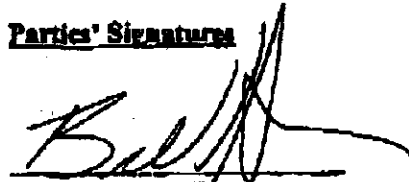
Dissenting Arbitrator Signature:

James W. Reid
Public Arbitrator

Signature Date

Date of Service

Parties' Signatures



Brett A. Aloala, Esq.
on behalf of Gary Bizzell and Annie Jacob

3/22/04

Signature Date

Dale E. Barnes, Esq.
on behalf Merrill Lynch, Pierce, Fenner & Smith, Inc.
and Andrew C. Anagnostou

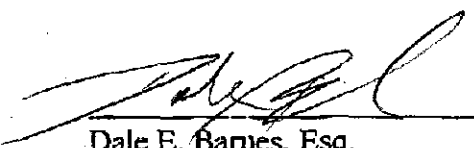
Signature Date

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Arbitration No 02-06034
Stipulated Award
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Parties' Signatures

Brett A. Alcala, Esq.
on behalf of Gary Bizzell and Annie Jacob

Signature Date



Dale E. Barnes, Esq.
on behalf Merrill Lynch, Pierce, Fenner & Smith, Inc.
and Andrew C. Anagnostou

3/23/04

Signature Date

ARBITRATION PANEL

Henry H. Hersch, Esq. -
James W. Reid -
Nicholas J. Caputo -

Public, Presiding Chair
Public Arbitrator
Non-Public Arbitrator

Concurring Arbitrators' Signatures

Henry H. Hersch, Esq.
Chair, Public Arbitrator

Signature Date



Nicholas J. Caputo
Non-Public Arbitrator

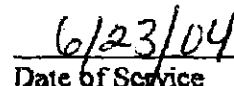


Signature Date

Dissenting Arbitrator Signature:

James W. Reid
Public Arbitrator

Signature Date

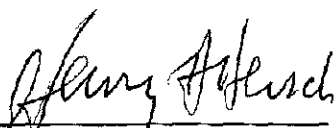


Date of Service

ARBITRATION PANEL

Henry H. Hersch, Esq.	-	Public, Presiding Chair
James W. Reid	-	Public Arbitrator
Nicholas J. Caputo	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures



Henry H. Hersch, Esq.
Chair, Public Arbitrator

5/14/04

Signature Date

Nicholas J. Caputo
Non-Public Arbitrator

Signature Date

Dissenting Arbitrator Signature:

James W. Reid
Public Arbitrator

Signature Date

6/23/04
Date of Service

ARBITRATION PANEL

Henry H. Hersch, Esq.	-	Public, Presiding Chair
James W. Reid	-	Public Arbitrator
Nicholas J. Caputo	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

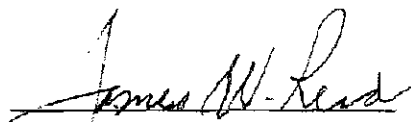
Henry H. Hersch, Esq.
Chair, Public Arbitrator

Signature Date

Nicholas J. Caputo
Non-Public Arbitrator

Signature Date

Dissenting Arbitrator Signature:


James W. Reid
Public Arbitrator

6/16/04
Signature Date

6/23/04
Date of Service