

Stipulated Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Theresa M. Major TTEE, U/A DTD 11/16/92, Claimant v. Merrill Lynch, Pierce, Fenner & Smith, Inc. and Ronald A. Lavo, Respondents

Case Number: 02-06099

Hearing Site: Los Angeles, California

Nature of Dispute: Customer v. Member Firm and Associated Person

REPRESENTATION OF PARTIES

For Claimant:

William S. Bonnheim, Esq.
Law Offices of William S.
Bonnheim, PLC
Palm Desert, California

For Respondents:

Yosef Sinensky, Esq.
Merrill Lynch, Pierce, Fenner
& Smith, Inc.
New York, New York

CASE INFORMATION

Statement of Claim filed: October 9, 2002

Claimant's Uniform Submission Agreement signed: October 9, 2002

Joint Statement of Answer filed by Respondents Merrill Lynch, Pierce, Fenner & Smith, Inc. and Ronald A. Lavo: December 18, 2002

Respondent Merrill Lynch, Pierce, Fenner & Smith, Inc.'s Uniform Submission Agreement signed: December 17, 2002

Respondent Ronald A. Lavo's Uniform Submission Agreement signed: December 17, 2002

CASE SUMMARY

In her Statement of Claim, Claimant alleged breach of fiduciary duty, elder abuse, failure to supervise, constructive fraud and violation of federal and state securities laws involving various unspecified securities.

Respondents denied the allegations of wrongdoing set forth in the Claimant's Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

Claimant requested compensatory damages in the sum of \$5,001.00, disgorgement, treble damages, interest, costs and attorney's fees.

Respondents requested dismissal of the Claimant's Statement of Claim in its entirety, costs and expungment of the matter from the registration records of Respondent Ronald A. Lavo.

OTHER ISSUES CONSIDERED AND DECIDED

On March 18, 2003, Claimant and Claimant's 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 May 8, 2003, Respondents' 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.

Claimant agreed to dismiss with prejudice all claims asserted against Respondents Merrill Lynch, Pierce, Fenner & Smith, Inc. and Ronald A. Lavo. On November 7, 2003, all of Claimant's claims asserted against Respondents were dismissed with prejudice.

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.

STIPULATION

It is hereby stipulated by Claimant and the individual Respondents, by and through their undersigned attorneys of record, that:

- 1) Claimant dismisses with prejudice all claims against Respondents.
- 2) The Arbitrator recommends the expungement of all reference to the above captioned arbitration from Respondent Ronald A. Lavo's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 99-09, Respondent Ronald A. Lavo must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

AWARD

After considering the Stipulation of the parties and subject to the terms of the confidential settlement agreement, the Arbitrator decided in full and final resolution of the issues submitted for determination as follows:

- 1) The Claimant's claims are dismissed with prejudice as against all Respondents.
- 2) The Arbitrator recommends the expungement of all reference to the above captioned arbitration from Respondent Ronald A. Lavo's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 99-09, Respondent Ronald A. Lavo must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.
- 3) The parties shall bear their respective costs, including attorney's fees.
- 4) All other relief requested and not expressly granted is denied.

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 = \$ 125.00

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, Merrill Lynch, Pierce, Fenner & Smith, Inc. the member firm is a party and the following fees are assessed:

Member Surcharge = \$ 425.00

Forum Fees and Assessments

The Arbitrator 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 Arbitrator. The following fees are assessed:

(1) Pre-hearing conference session with the Chair @ \$ 450.00/session = \$ 450.00

Pre-hearing conference:	May 27, 2003	1 session
Total Forum Fees		= \$ 450.00

1. The Arbitrator assessed \$ 225.00 of the forum fees to Claimant.
2. The Arbitrator assessed \$ 225.00 of the forum fees jointly and severally to Respondents Merrill Lynch, Pierce, Fenner & Smith, Inc. and Ronald A. Lavo.

Fee Summary

1. Claimant Theresa M. Major TTEE, U/A DTD 11/16/92 is charged with the following fees and costs:

Initial Filing Fee	= \$ 125.00
Forum Fees	= \$ 225.00
Total Fees	= \$ 350.00
Less payments	= \$(575.00)
Refund Due Claimant	= \$(225.00)

2. Respondent Merrill Lynch, Pierce, Fenner & Smith, Inc. is charged with the following fees and costs:
- | | |
|---------------------------------|----------------------|
| Member Fees | = \$ 425.00 |
| <u>Less payments</u> | <u>= \$(625.00)</u> |
| Refund Due to Respondent | = \$ (200.00) |
3. Respondents Merrill Lynch, Pierce, Fenner & Smith, Inc and Ronald A. Lavo are charged jointly and severally with the following fees and costs:
- | | |
|--|---------------------|
| Forum Fee | = \$ 225.00 |
| <u>Less payments by Respondent Merrill Lynch, Fenner & Smith, Inc.</u> | <u>= \$(225.00)</u> |
| Balance Due NASD Dispute Resolution | = \$ 0.00 |

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.

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Parties' Signatures

Dated: 2/9/04

LAW OFFICES OF WILLIAM S. BONNHEIM, PLC

William S. Bonheim
William S. Bonheim, Esq.
Attorney for Claimant

MERRILL LYNCH, PIERCE, FENNER &
SMITH INC.

Dated: _____

Yosef Simensky, Esq.
Attorneys for Respondents

Parties' Signatures

LAW OFFICES OF WILLIAM S. BONNHEIM, PLC

Dated: _____

William S. Bonnheim, Esq.
Attorney for Claimant

MERRILL LYNCH, PIERCE, FENNER &
SMITH, INC.

Dated: 2/13/04

Josef Simensky, Esq.
Attorneys for Respondents

ARBITRATOR

David L. Maislen

Public Arbitrator, Presiding Chair

Arbitrator's Signature



David L. Maislen
Chair, Public Arbitrator

2/17/04

Signature Date

February 17, 2004
Date of Service