

**Award
NASD Dispute Resolution**

In the Matter of the Arbitration Between:

Name of the Claimants

Yves de Rosee

Maria Teresa Fulci-de Rosee

Case Number: 02-06196

Name of the Respondents

Merrill Lynch, Pierce, Fenner & Smith, Inc.

Nathan D. Marsden

Hearing Site: Washington, DC

Nature of the Dispute: Customer vs. Member and Associated Person.

REPRESENTATION OF PARTIES

Claimants, Yves de Rosee and Maria Teresa Fulci-de Rosee, "Claimants", were represented by James J. Faughnan, Esq., Quagliano & Seeger, Washington, DC.

Respondents, Merrill Lynch, Pierce, Fenner & Smith, Inc. ("Merrill Lynch") and Nathan D. Marsden ("Marsden"), hereinafter collectively referred to as "Respondents", were represented by Richard Kelly, Esq., in-house counsel for Merrill Lynch, New York, New York.

CASE INFORMATION

Statement of Claim filed on October 15, 2002.

Claimants signed the Uniform Submission Agreement on September 15, 2002.

Joint Statement of Answer filed by Respondents on December 16, 2002.

A representative for Merrill Lynch signed the Uniform Submission Agreement on December 16, 2002.

Respondent Marsden signed the Uniform Submission Agreement on November 13, 2002.

CASE SUMMARY

Claimants asserted the following causes of action, among others: fraud in the inducement; negligent misrepresentation; breach of contract; breach of fiduciary duty; and, negligence. The causes of action relate to the allocation of assets in Claimants' account.

Unless specifically admitted in its Answer, Respondents denied the allegations made in the Statement of Claim and asserted the following defenses, among others: that the Statement of

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Claim fails to state a cause of action upon which damages can be recovered; that Respondents acted in good faith; estoppel; that Respondents acted in a commercially reasonable manner; and, proximate cause.

RELIEF REQUESTED

Claimants requested:

Compensatory Damages	\$65,294.00
Punitive Damages	\$500,000
Interest	amount unspecified
Attorneys' Fees	amount unspecified
Other Costs	amount unspecified

In their Statement of Answer, Respondents requested that the Claim be denied in its entirety, that all costs be assessed against Claimants; and, that all references to this matter be expunged from Respondent Marsden's Central Registration Depository ("CRD") record.

OTHER ISSUES CONSIDERED AND DECIDED

On September 17, 2003 Claimants filed a Motion for Sanctions for Failure to Comply in a timely fashion. The panel granted the motion and Respondent Merrill Lynch is ordered to pay Claimants' Legal Fees as outlined below.

The parties agreed that the Award in this matter may be entered 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 Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondents are jointly and severally liable and shall pay to Claimants the sum of five thousand five hundred dollars (\$5,500.00);
2. Respondent Merrill Lynch is liable to and shall pay to Claimants the sum of twelve thousand dollars (\$12,000.00);
3. The Panel is unanimous in finding that there was no evidence to support an allegation of fraud;
4. The Panel, by a majority, concluded that Respondents failed to conform to the standards expressly included in their relationship with the Claimants and contained in a brochure sent

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to the Claimants;

5. Respondent Merrill Lynch is ordered to pay Claimant's legal fees in the amount of one thousand nine hundred and forty two dollars and fifty cents (\$1,942.50) as a sanction for failure to comply with the Panel's Discovery Order in a timely fashion;
6. The parties shall bear their respective costs, including attorneys' fees, except as Fees are specifically addressed in Paragraph 5, and below;
7. 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 = \$ 375.00

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 person at the time of the events giving rise to the dispute. Accordingly, Merrill Lynch is a party.

Member surcharge = \$2,250.00
Pre-hearing process fee = \$ 750.00
Hearing process fee = \$4,000.00

Forum Fees and Assessments

The Panel has assessed forum fees for each session conducted. A session is any meeting between the parties and the arbitrator(s), including a pre-hearing conference with the arbitrator(s), 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(s): September 15, 2003 1 session

One (1) Pre-hearing session with Panel @ \$1,200.00 = \$1,200.00
Pre-hearing conference(s): May 7, 2003 1 session

Three (3) Hearing sessions with Panel @ \$1,200.00 = \$3,600.00
Hearing Dates: October 21, 2003 2 sessions
October 22, 2003 1 session

Total Forum Fees = \$5,250.00

8.24.03

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1. The Panel has assessed \$2,400.00 of the forum fees to Claimants
2. The Panel has assessed \$450.00 of the forum fees to Respondent Merrill Lynch
3. The Panel has assessed \$2,400.00 of the forum fees jointly and severally to Respondents Merrill Lynch and Marsden.

Fee Summary

1. Claimants are assessed and shall pay:	
Initial Filing Fee	= \$ 375.00
Forum Fees	= \$ 2,400.00
Total Fees	= \$ 2,775.00
Less payments	= \$ 975.00
Balance Due NASD Dispute Resolution	= \$ 1,800.00
2. Respondent Merrill Lynch is assessed and shall pay:	
Member Fees	= \$ 7,000.00
Forum Fees	= \$ 450.00
Total Fees	= \$ 7,450.00
Less payments	= \$ 3,550.00
Balance Due NASD Dispute Resolution	= \$ 3,900.00
3. Respondents are jointly and severally assessed:	
Forum Fees	= \$ 2,400.00
Total Fees	= \$ 2,400.00
Less payments	= \$ 00.00
Balance Due NASD Dispute Resolution	= \$ 2,400.00

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

ARBITRATION PANEL

Egon Guttman, Esq.	-	Public Arbitrator, Presiding Chairperson
Mary E. Beach, Esq.	-	Public Arbitrator, Panelist
E. Robert Kent, Jr., Esq.	-	Non-Public Arbitrator, Panelist

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Concurring Arbitrators' Signatures

Egon Guttman
Egon Guttman, Esq.
Public Arbitrator, Presiding Chairperson

Nov: 14, 2003
Signature Date

Mary E. Beach, Esq.
Public Arbitrator, Panelist

Signature Date

Concurring in Part, Dissenting in part, Arbitrator's Signature (see Number 3 & 4 in "Award" section)

E. Robert Kent, Jr., Esq.
Non-Public Arbitrator, Panelist

Signature Date

11-17-03
Date of Service (For NASD Dispute Resolution office use only)

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Concurring Arbitrators' Signatures

Egon Guttman, Esq.

Public Arbitrator, Presiding Chairperson

Signature Date

May 14 1892

Mary E. Beach, Esq.

Public Arbitrator, Paperlist

11/13/03

Signature Date

Concurring in Part, Dissenting in part, Arbitrator's Signature (see Number 3 & 4 in "Award" section)

E. Robert Kent, Jr., Esq.

Non-Public Arbitrator, Panellist

Signature Date

11/17/03

Date of Service (For NASD Dispute Resolution office use only)

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Concurring Arbitrators' Signatures

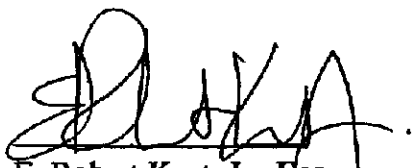
Egon Guttman, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

Mary E. Beach, Esq.
Public Arbitrator, Panelist

Signature Date

Concurring in Part, Dissenting in part, Arbitrator's Signature (see Number 3 & 4 in
"Award" section)


E. Robert Kent, Jr., Esq.
Non-Public Arbitrator, Panelist

11/6/2003
Signature Date

11/17/03.
Date of Service (For NASD Dispute Resolution office use only)