

Stipulated Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Raymond A. Shapiro, Claimant vs. Merrill Lynch Pierce Fenner & Smith, Inc., Merrill Lynch Asset Management, LP, Merrill Lynch Focus Twenty Fund, Inc. and Michael Weil, Respondents.

Case Number: 02-06288

Hearing Site: Albuquerque, New Mexico

NATURE OF DISPUTE

Customer vs. Member Firm, Non-Member Firms and Associated Person

REPRESENTATION OF PARTIES

Claimant, Raymond A. Shapiro ("Shapiro"), referred to as "Claimant": Herbert Ehrlich, Esq. of Scherr, Legate & Ehrlich, PLLC, located in El Paso, Texas.

Respondents, Merrill Lynch Pierce Fenner & Smith, Inc. ("Merrill Lynch"), Merrill Lynch Asset Management, LP ("ML Asset"), Merrill Lynch Focus Twenty Fund, Inc. ("ML Focus") and Michael M. Weil ("Weil") hereinafter collectively referred to as "Respondents": Ethan Leonard, Esq. of the Law Offices of Neal Brickman located in New York, New York.

CASE INFORMATION

Statement of Claim filed on or about: October 21, 2002

Claimant Shapiro signed the Uniform Submission Agreement: October 15, 2002

Statement of Answer filed by Respondents, Merrill Lynch and Weil, on or about: June 6, 2003

Respondent Weil signed the Uniform Submission Agreement: June 5, 2003

Respondent Merrill Lynch signed an undated Uniform Submission Agreement and received by NASD: June 30, 2003

Respondents Merrill Lynch Asset Management, LP and Merrill Lynch Focus Twenty Fund, Inc. are non-members of the NASD and did not submit to this arbitration.

CASE SUMMARY

Claimants asserted the following causes of action: breach of contract, collection, negligence, failure to supervise, breach of fiduciary duty and detrimental reliance.

Unless specifically admitted in its Answer, Respondents Merrill Lynch and Weil denied the allegations made in the Statement of Claim and asserted the following defenses:

1. Claimant failed to state a cause of action upon which relief may be granted;
2. Claimant suffered no losses as a proximate result of any actions or omissions made by Mr. Weil or Merrill Lynch.
3. Respondents owed no fiduciary duty to Claimant with reference to the Account,

which was a non-discretionary account over which Claimant had, and maintained, complete control.

4. Respondents did not make any unauthorized trades with reference to the Account or any other account or maintained by Claimant.
5. In accepting and effecting trading instructions from the duly authorized account holder, Respondents acted in a completely responsible manner in accord with the standards and practices of their industry.
6. In responding to demands for advice and providing information based upon those demands and honoring Claimant's trading instructions, Respondents acted in a completely responsible manner in accord with the standards and practices of their industry.
7. Any claims of Claimant are barred by the doctrines of laches, estoppel, unclean hands. As an experienced investor, Claimant was unaware of the risks associated with the transaction in question and specifically accepted such risks in an attempt to procure greater returns. Moreover, upon information and belief, Claimant's motivation in attempting to prosecute this claim is based in part on Merrill Lynch's legally mandated compliance with a Notice of Levy submitted to Merrill Lynch by the Commonwealth of Massachusetts' Department of Finance for unpaid taxes due and owing by Claimant.
8. All claims are barred by the doctrine of ratification.
9. Claimant failed to mitigate any damages actually suffered.
10. To the extent Claimant may have sustained damages, such damages were caused, in whole or in part by the culpable conduct, fault, assumption of risks, negligence, intentional acts and/or other wrongful conduct on the part of Claimant and are, therefore, not recoverable from the Respondents.
11. To the extent Claimant may have sustained damages, such damages were caused, in whole or in part by the culpable conduct, fault, assumption of risks, negligence, intentional acts and/or other wrongful conduct on the part of third parties over which Respondents had no authority or control and are, therefore, not recoverable from Respondents.
12. Attorneys' fees are not recoverable by Claimant in this arbitration.

RELIEF REQUESTED

Claimant Schapiro requested actual losses in the amount of \$88,000.00; exemplary damages in amount of \$88,000.00; interest at the legal rate; reasonable attorney's fees; costs of arbitration; and whatever further costs the Arbitrators shall deem reasonable.

Respondents, Merrill Lynch and Weil, requested judgment against Claimant; dismissal of all claims in its entirety; awarding Respondents costs, disbursements and attorneys fees for this action; and granting any such other and further relief as the NASD, or the designated Panel, may deem just and proper.

OTHER ISSUES CONSIDERED AND DECIDED

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

Respondents Merrill Lynch Asset Management, LP and Merrill Lynch Focus Twenty Fund, Inc. did not file with the NASD Dispute Resolution a properly executed submission to arbitration, and are not NASD member firms. As a result, NASD does not have jurisdiction over the claims asserted against Merrill Lynch Asset Management, LP and Merrill Lynch Focus Twenty Fund, Inc. and were not adjudicated.

The parties have stipulated and agreed that any claims previously existing against Michael M. Weil are withdrawn by Claimant, Raymond A. Schapiro.

AWARD

After considering the parties' submissions and representations, but without making any findings of fact or conclusions of law, the undersigned arbitrators order as follows:

1. This matter be, and hereby is, dismissed with prejudice as against Merrill Lynch Pierce Fenner & Smith, Inc., Merrill Lynch Asset Management, LP and Merrill Lynch Focus Twenty Fund, Inc.;
2. Any and all claims for costs, fees, punitive damages or attorneys' fees or any other relief, except for that specifically provided for herein, by either party are hereby dismissed with prejudice; and
3. The Panel recommends the expungement of all reference to the above-captioned arbitration from Respondent Michael M. Weil's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notices to Members 99-90 and 99-54, Respondent Weil must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.
5. That any relief not specifically enumerated, including punitive damages is hereby denied with prejudice.

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 = \$ 300.00

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. In this matter, the member firm is a party.

Member surcharge = \$1,700.00

Pre-hearing process fee = \$ 750.00

Hearing process fee = \$2,750.00

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. Fees associated with these proceedings are:

One (1) Pre-hearing session with Panel x \$1,125.00 = \$1,125.00

Pre-hearing conference: January 28, 2004 1 session

Total Forum Fees = \$1,125.00

The parties have agreed to pay forum fees as follows:

Claimant Schapiro shall pay 50% of the forum fees in the amount of \$562.50.

Respondent Merrill Lynch shall pay 50% of the forum fees in the amount of \$562.50.

Fee Summary

Claimant, Schapiro, is hereby are solely liable for:

Initial Filing Fee = \$ 300.00

Forum Fees = \$ 562.50

Total Fees = \$ 862.50

Less payments = \$1,425.00

Refund Due from NASD Dispute Resolution = \$ 562.50

Respondent, Merrill Lynch, is hereby solely liable for:

Member Fees = \$5,200.00

Forum Fees = \$ 562.50

Total Fees = \$5,762.50

Less payments = \$5,200.00

Balance Due NASD Dispute Resolution = \$ 562.50

All balances are due to NASD Dispute Resolution.

ARBITRATION PANEL

Patrick J. Halter	-	Public Arbitrator, Presiding Chairperson
Carl E. Gutman	-	Public Arbitrator
Jerry H. Friedland	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

Patrick J. Halter
Public Arbitrator, Presiding Chair

8/5/04
Signature Date

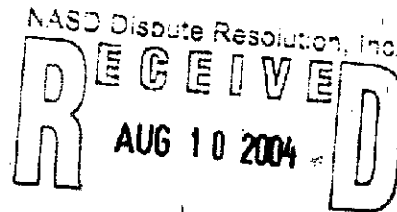
Carl E. Gutman
Public Arbitrator

8/5/04
Signature Date

Jerry H. Friedland
Non-Public Arbitrator

8/5/04
Signature Date

8/5/04
Date of Service (For NASD office use only)



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Carl E. Gutman	-	Public Arbitrator
Jerry H. Friedland	-	Non-Public Arbitrator

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Public Arbitrator, Presiding Chair

Carl E. Gutman

Carl E. Gutman
Public Arbitrator

Signature Date

8/5/2004

Signature Date

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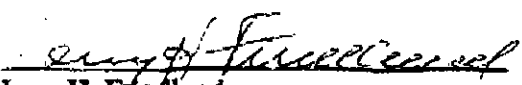
Concurring Arbitrators' Signatures

Patrick J. Halter
Public Arbitrator, Presiding Chair

Signature Date

Carl E. Gutman
Public Arbitrator

Signature Date



Jerry H. Friedland
Non-Public Arbitrator

8/5/09

Signature Date

Date of Service (For NASD office use only)