
Stipulated Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Names of the Claimants

Case Number: 02-06932

Michael R. Angel and Holly J. Angel
Michael R. Angel C/F Kristen M. Angel UGMA/FL
Michael R. Angel C/F Lauren E. Angel UGMA/FL

Names of the Respondents

Hearing Site: Boca Raton, Florida

Merrill Lynch, Pierce, Fenner & Smith Incorporated
Robert Moossy
Robert D. Thompson
Jose Rivera

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

REPRESENTATION OF PARTIES

For Michael R. Angel and Holly J. Angel, Michael R. Angel C/F Kristen M. Angel UGMA/FL and Michael R. Angel C/F Lauren E. Angel UGMA/FL, hereinafter collectively referred to as "Claimants": Wayne Schwartz, Esq., Blum, Silver & Schwartz, LLP, Coral Springs, Florida.

For Merrill Lynch, Pierce, Fenner & Smith Incorporated ("Merrill"), Robert Moossy ("Moossy"), Robert D. Thompson ("Thompson") and Jose Rivera ("Rivera"), hereinafter collectively referred to as "Respondents": Thomas L. Weisenbeck, Esq., Bressler, Amery & Ross, P.C., Florham Park, New Jersey.

CASE INFORMATION

Statement of Claim filed on or about: November 12, 2002.

Claimants signed the Uniform Submission Agreement: November 18, 2002.

Statement of Answer filed by Respondents on or about: February 5, 2003.

Respondent Moossy signed the Uniform Submission Agreement: December 12, 2002.

Respondent Merrill signed the Uniform Submission Agreement: January 3, 2003.

Respondent Thompson signed the Uniform Submission Agreement: December 19, 2002.

Respondent Rivera did not file an executed Uniform Submission Agreement.

CASE SUMMARY

Claimants asserted the following causes of action: unsuitability; negligent supervision; misrepresentation; conflicts of interest; gross negligence; and, breach of fiduciary duty. The causes of action relate to the purchase and sale of shares of Iridium, Zoltek, Veeco, Advanced Health Systems and USN Communications stock in Claimants' accounts.

Unless specifically admitted in their Answer, Respondents denied the allegations of wrongdoing set

forth in the Statement of Claim and asserted various defenses.

RELIEF REQUESTED

Claimants requested compensatory damages in the amount of \$264,055.00 and punitive damages in the amount of \$100,000.00.

Respondents requested dismissal of the Statement of Claim in its entirety, expungement of Claimants' claims from Respondents' permanent registration records maintained by the NASD Central Registration Depository ("CRD"), costs and any other relief deemed just and proper.

OTHER ISSUES CONSIDERED AND DECIDED

Respondent Rivera did not file with NASD Dispute Resolution a properly executed submission to arbitration but is required to submit to arbitration pursuant to the NASD Code of Arbitration Procedure (the "Code") and, having answered the claim, is bound by the determinations of the Panel on all issues submitted.

On or about September 21, 2004, Claimants notified NASD Dispute Resolution that this matter had settled.

Claimants and Respondent Merrill entered into a confidential settlement agreement. In connection with that agreement, Claimants dismissed all claims, with prejudice, against Respondents in November 2004.

On or about December 7, 2004, the parties submitted a proposed Stipulated Award with a request that the Panel enter the Stipulated Award expunging this matter from Respondents' NASD CRD records.

The parties have agreed that the Stipulated Award in this matter may be executed in counterpart copies.

AWARD

After considering the pleadings, the proposed Stipulated Award and the record in this matter, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

Claimants' claims are denied and dismissed, with prejudice.

The Panel recommends the expungement of all references to the above captioned arbitration from Respondents Moosy, Thompson and Rivera's registration records maintained by the NASD CRD, with the understanding that pursuant to NASD Notices to Members 99-09 and 99-54, Respondents Moosy, Thompson and Rivera must obtain confirmation from a court of competent jurisdiction before the NASD CRD will execute the expungement directive.

Each party shall bear its own costs and expenses associated with the above-referenced arbitration, including attorneys' fees.

Any and all claims for relief not specifically addressed herein are 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 = \$ 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 persons at the time of the events giving rise to the dispute. In this matter, the member firm Merrill Lynch, Pierce, Fenner & Smith Incorporated is a party.

Member surcharge	= \$1,700.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$2,750.00

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

No requests for adjournments were filed in this matter.

Three-Day Cancellation Fees

Fees apply when a hearing on the merits is postponed or settled within three business days before the start of a scheduled hearing session:

No three-day cancellation fees were incurred in this matter.

Injunctive Relief Fees

Injunctive relief fees are assessed to each member or associated person who files for a temporary injunction in court. Parties in these cases are also assessed arbitrator travel expenses and costs when an arbitrator is required to travel outside his or her hearing location and additional arbitrator honoraria for the hearing for permanent injunction. These fees, except the injunctive relief surcharge, are assessed equally against each party unless otherwise directed by the Panel.

No injunctive relief fees were incurred in this matter.

Forum Fees and Assessments

The Panel has assessed forum fees for each session conducted. A 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 the Panel @ \$1,125.00	= \$1,125.00
<u>Pre-hearing conference: February 23, 2004</u>	<u>1 session</u>
Total Forum Fees	= \$1,125.00

The Panel has assessed \$562.50 of the forum fees jointly and severally to Claimants.
The Panel has assessed \$562.50 of the forum fees jointly and severally to Respondents.

Administrative Costs

Administrative costs are expenses incurred due to a request by a party for special services beyond the normal administrative services. These include, but are not limited to: additional copies of arbitrator awards; copies of audio transcripts; retrieval of documents from archives; interpreters; and, security.

No administrative costs were incurred in this matter.

Fee Summary

Claimants are jointly and severally liable for:

Initial Filing Fee	= \$ 300.00
<u>Forum Fees</u>	<u>= \$ 562.50</u>
Total Fees	= \$ 862.50
<u>Less payments</u>	<u>= \$ 862.50</u>
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondent Merrill is solely liable for:

<u>Member Fees</u>	<u>= \$ 5,200.00</u>
Total Fees	= \$ 5,200.00
<u>Less payments</u>	<u>= \$ 5,200.00</u>
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondents are jointly and severally liable for:

<u>Forum Fees</u>	<u>= \$ 562.50</u>
Total Fees	= \$ 562.50
<u>Less payments</u>	<u>= \$ 0.00</u>
Balance Due NASD Dispute Resolution	= \$ 562.50

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

ARBITRATION PANEL

Richard E. Conner, Esq.	-	Public Arbitrator, Presiding Chairperson
John J. Hearn, Esq.	-	Public Arbitrator
Richard H. Schneider	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

/s/

12/10/04

Richard E. Conner, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

/s/

12/13/04

John J. Hearn, Esq.
Public Arbitrator

Signature Date

/s/

12/10/04

Richard H. Schneider
Non-Public Arbitrator

Signature Date

12/13/04

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

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John J. Hearn, Esq.
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Concurring Arbitrators' Signatures



Richard E. Conner, Esq.
Public Arbitrator, Presiding Chairperson

DECEMBER 10, 2004
Signature Date

John J. Hearn, Esq.
Public Arbitrator

Signature Date

Richard H. Schneider
Non-Public Arbitrator

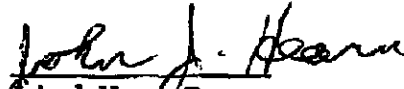
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