
Stipulated Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimant

William A. Madison Revocable Trust

Case Number: 02-07082

Names of the Respondents

Merrill Lynch, Pierce, Fenner & Smith, Inc.
Peter D. Brooker

Hearing Site: Orlando, Florida

REPRESENTATION OF PARTIES

For William A. Madison Revocable Trust, referred to as "Claimant": Austin N. Aaronson, Esq., Aaronson, Austin, P.A., Winter Park, Florida.

For Merrill Lynch, Pierce, Fenner & Smith, Inc. ("MLPFS") and Peter D. Brooker ("Brooker"), collectively referred to as "Respondents": Yosef Sinensky, Assistant Vice President and Counsel with Respondent MLPFS, New York, New York.

CASE INFORMATION

Statement of Claim filed on or about: November 22, 2002.

Claimant signed the Uniform Submission Agreement on: December 12, 2002.

Statement of Answer filed by Respondents on or about: February 18, 2003.

Respondent MLPFS signed the Uniform Submission Agreement on: February 18, 2003.

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

CASE SUMMARY

Claimant alleged the following causes of action: 1) breach of fiduciary duty / unsuitability of investments; 2) unauthorized trading in violation of 15 U.S.C. Section 78(J); 3) statutory rescission based upon unauthorized trading; 4) statutory rescission based upon deceit; 5) violation of 15 U.S.C. Section 78(J); 6) common law fraud; and 7) professional negligence. The causes of action relate to investments in various stocks, municipal bonds and mutual funds, including Evergreen Blue Chip.

Respondents denied the allegations made in the Statement of Claim and asserted various defenses.

RELIEF REQUESTED

Claimant requested: 1) compensatory damages in the amount of \$20,231.75; 2) compensatory damages for commissions; 3) compensatory damages for loss of opportunity; 4) costs in the amount of \$1,425.00 for forum fees; 5) costs of litigation; 6) attorneys' fees in the amount of \$40,000.00; 7) punitive damages in the amount of \$1,000,000.00; 8) rescission; 9) interest in the amount of \$1,854.57; 10) consequential damages; and 11) such other relief the undersigned arbitrators (the "Panel") deemed just and proper.

Respondents requested: 1) dismissal of the Statement of Claim in its entirety; 2) costs to be assessed against Claimant; and 3) expungement of all reference to the above captioned arbitration from Respondent Brooker's registration records maintained by the NASD Central Registration Depository ("CRD").

OTHER ISSUES CONSIDERED AND DECIDED

On or about May 28, 2003, the parties filed their Stipulation for Voluntary Dismissal with Prejudice and Expungement (the "Stipulation"). The parties stipulated to: 1) dismissal with prejudice of the above-captioned arbitration proceeding; 2) each party to bear his/its own expenses; 3) Claimant executing any and all additional documentation required, if applicable, and otherwise cooperating fully in the interest of effectuating an order to expunge or purge the record of the above-captioned arbitration proceeding from Respondent Brooker's registration records maintained by the NASD CRD; and 4) the Panel recommending expungement of all references to the above-captioned arbitration proceeding from Respondent Brooker's registration records maintained by the NASD CRD, with the understanding that pursuant to NASD Notice to Members 99-09 and 99-54, Respondent Brooker must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive. On or about June 26, 2003, the Panel entered its Order granting the relief requested in the Stipulation.

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 Stipulation, the Panel decided in full and final resolution of the issues submitted for determination as follows:

1. The above-captioned arbitration proceeding is dismissed with prejudice.
2. Each party shall bear his/its own costs and expenses.
3. The Panel recommends expungement of all references to the above-captioned arbitration proceeding from Respondent Brooker's registration records maintained by the NASD CRD, with the understanding that pursuant to NASD Notice to Members 99-09 and 99-54, Respondent Brooker must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.
4. Claimant shall execute any and all documentation required, if applicable, and otherwise cooperate fully in the interest of effectuating the purposes of this Stipulated Award.

FEES

Pursuant to the NASD Code of Arbitration Procedure (the "Code"), the following fees are assessed:

Filing Fees

NASD will retain or collect the non-refundable filing fees for each claim:

The Panel waived the initial claim filing fee in the amount of \$500.00.

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, Respondent MLPFS is a member firm and a party.

| | |
|-------------------------|--------------|
| Member surcharge | = \$2,800.00 |
| Pre-hearing process fee | = \$ 750.00 |

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

There were no adjournments requested during these proceedings for which fees were assessed.

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.

There were no injunctive relief fees assessed during these proceedings.

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:

There were no sessions conducted and no forum fees assessed during these proceedings.

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 not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

There were no administrative costs incurred during these proceedings.

Fee Summary

Respondent MLPFS is solely liable for:

| | |
|-------------------------|--------------|
| <u>Member Fees</u> | = \$3,550.00 |
| <u>Total Fees</u> | = \$3,550.00 |
| <u>Less payments</u> | = \$3,550.00 |
| <u>Balance Due NASD</u> | = \$ 0.00 |

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

ARBITRATION PANEL

| | | |
|------------------------------|---|---|
| <i>Donald J. Spero, Esq.</i> | - | <i>Public Arbitrator, Presiding Chairperson</i> |
| <i>Robert J. Morris, CPA</i> | - | <i>Public Arbitrator</i> |
| <i>Archibald L. Watkins</i> | - | <i>Non-Public Arbitrator</i> |

Concurring Arbitrators' Signatures

_____/s/_____
Donald J. Spero, Esq.
Public Arbitrator, Presiding Chairperson

July 2, 2003
Signature Date

_____/s/_____
Robert J. Morris, CPA
Public Arbitrator

July 1, 2003
Signature Date

_____/s/_____
Archibald L. Watkins
Non-Public Arbitrator

June 30, 2003
Signature Date

July 3, 2003
Date of Service (For NASD use only)

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Donald J. Spero, Esq.

Robert J. Morris, CPA

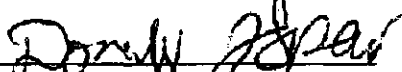
Archibald L. Watkins

Public Arbitrator, Presiding Chairperson

Public Arbitrator

Non-Public Arbitrator

Concurring Arbitrators' Signatures


 Donald J. Spero, Esq.

Public Arbitrator, Presiding Chairperson


 Signature Date

Robert J. Morris, CPA

Public Arbitrator

Signature Date

Archibald L. Watkins

Non-Public Arbitrator

Signature Date

Date of Service (For NASD use only)

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FL ARBITRATION

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| <i>Archibald L. Watkins</i> | - | <i>Non-Public Arbitrator</i> |

Concurring Arbitrators' Signatures

Donald J. Spero, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

Robert J. Morris, CPA
Public Arbitrator

7-1-03
Signature Date

Archibald L. Watkins
Non-Public Arbitrator

Signature Date

Date of Service (For NASD use only)

Jun-30, 2003

No. 5330 P. 5

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| <i>Archibald L. Watkins</i> | - | <i>Non-Public Arbitrator</i> |


Concurring Arbitrators' Signatures

Donald J. Spero, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

Robert J. Morris, CPA
Public Arbitrator

Signature Date


Archibald L. Watkins
Non-Public Arbitrator


Signature Date

Date of Service (For NASD use only)