

**Stipulated Award
NASD Dispute Resolution**

In the Matter of the Arbitration Between:

Names of Claimants:

Savers Investments, Inc.,
Markman-Humphries, Inc., and
BMI Investments, Inc.

vs.

Case Number: 02-07127

Hearing Site: Houston, Texas

Names of Respondents:

Merrill Lynch, Pierce, Fenner & Smith, Inc.
and Victor D. Walker

NATURE OF CASE

Customers vs. Member and an Associated Person

REPRESENTATION OF PARTIES

Claimants, Savers Investments, Inc., Markman-Humphries, Inc., and BMI Investments, Inc., hereinafter referred to as "Claimants" were represented by William Fred Hagans, Esq., of Hagans, Bobbs, Burdine, of Houston, Texas.

Respondents, Merrill Lynch, Pierce, Fenner & Smith, Inc. and Victor D. Walker, hereinafter referred to as "Respondents" were represented by Jack D. Ballard, Esq., of The Ballard Law Firm, Houston, Texas.

CASE INFORMATION

The Statement of Claim was filed on or about November 20, 2002.

The Submission Agreement of Claimants, Savers Investments, Inc., Markman-Humphries, Inc., and BMI Investments, Inc., was filed on or about November 18, 2002.

Respondents' Answer was filed jointly on or about February 11, 2003.

The Submission Agreement of Respondent, Merrill Lynch, Pierce, Fenner & Smith Inc., was signed on or about February 7, 2003.

The Submission Agreement of Respondent, Victor D. Walker, was signed on or about January 29, 2003.

CASE SUMMARY

Claimants asserted the following causes of action: breach of fiduciary duty, negligence, violations of the Federal Securities Exchange Act of 1934, violations of the Texas Securities Act, violations of the Texas fraud statutes, violations of the Texas Commerce and Business Code, negligent misrepresentation, unjust enrichment, common law fraud, churning, failure to supervise, and respondeat superior. The causes of action relate to unspecified bonds held in Claimants' accounts at Merrill Lynch, and Claimants' loan accounts at Merrill Lynch Bank USA.

Unless specifically admitted in their Answer, Respondents denied the allegations of wrongdoing set forth in the Statement of Claim and asserted the following defenses: (i) that Claimants failed to allege facts sufficient to support any of the causes of action asserted against Respondents; (ii) that any losses in Claimants' accounts were the result of market forces and/or Claimants' own negligence rather than any act or omission on the part of Respondents; (iii) estoppel; (iv) ratification; (v) failure to mitigate; and (vi) that an award of punitive or exemplary damages would violate the United States and Texas Constitutions.

RELIEF REQUESTED

Claimants requested an award in the amount of:

Actual/Compensatory	\$4,675,000
Punitive/Exemplary	Unspecified
Attorney's Fees	Unspecified
Other Costs	Unspecified
Other Monetary Relief	Unspecified

Respondents requested that the claims asserted against them be denied in their entirety and that they be awarded their costs, attorneys' fees, and an expungement.

OTHER ISSUES CONSIDERED AND DECIDED

On or about January 26, 2004, Claimants and Respondents reached an agreement to settle the claims asserted in the arbitration proceeding, and each of the Respondents and Claimants have executed a Settlement Agreement and Release.

The parties have agreed that a single arbitrator may execute the Stipulated Award.

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.) Claimants' claims against Respondents, Merrill Lynch, Pierce, Fenner & Smith Inc., and Victor D. Walker, each and all, are dismissed with prejudice pursuant to the parties' settlement agreement;
- 2.) The Panel recommends the expungement of all reference to the above-captioned arbitration from Respondent Victor D. Walker's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to the NASD Notices to Members 99-09, Respondent Victor D. Walker must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive;
- 3.) Other than Forum Fees which are specified below, the parties shall each bear their own costs and expenses incurred in this matter; and
- 4.) Any relief not specifically enumerated is hereby denied with prejudice.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Dispute Resolution, Inc. will retain or collect the non-refundable filing fees for each claim:

Initial claim filing fee	= \$ 600
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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 Merrill Lynch, Pierce, Fenner & Smith, Inc.

Member Surcharge	= \$ 2800
Pre-Hearing Process Fee	= \$ 750

Hearing Process Fee	= \$ 5000
Total Member Fees	= \$ 8550

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. Forum fees associated with these proceedings are:

One (1) Pre-hearing conference with the Panel @ \$1200/session	= \$ 1200
Pre-hearing conference: June 23, 2003 1 session	

Three (3) Hearing sessions @ \$1200/session	= \$ 3600
Hearings: January 26, 2004 2 sessions	
January 27, 2004 1 session	

Total Forum Fees	= \$ 4800
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1. The Panel has assessed \$ 2400 of the forum fees jointly and severally against Claimants, Savers Investments, Inc., Markman-Humphries, Inc., and BMI Investments, Inc.
2. The Panel has assessed \$ 2400 of the forum fees jointly and severally against Respondents, Merrill Lynch, Pierce, Fenner & Smith Inc., and Victor D. Walker.

FEE SUMMARY

Claimants Savers Investments, Inc., Markman-Humphries, Inc., and BMI Investments, Inc. be and hereby are jointly and severally liable for:

Initial Filing Fee	= \$ 600
Forum Fee	= \$ 2400
Total Fees	= \$ 3000
Less payments	= \$ 1800
Balance Due NASD Dispute Resolution	= \$ 1200

Respondent Merrill Lynch, Pierce, Fenner & Smith Incorporated be and hereby is solely liable for:

Member Fees	= \$ 8550
Total Fees	= \$ 8550
Less payments	= \$ 8550
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondents, Merrill Lynch, Pierce, Fenner & Smith, Inc. and Victor D. Walker, be and hereby are jointly and severally liable for:

<u>Forum Fee</u>	= \$ 2400
<u>Total Fees</u>	= \$ 2400
<u>Less Payments</u>	= \$ 2400
Balance Due NASD Dispute Resolution, Inc.	= \$ 0.00

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

ARBITRATOR

Sharon Jevert Hemphill, Esq.-Public Arbitrator, Presiding Chair

Arbitrator's Signature

/s/ Sharon Hemphill
Sharon Jevert Hemphill, Esq.
Public Arbitrator, Presiding Chair

June 4, 2004
Signature Date

June 16, 2004
Date of Service (For NASD office use only)

