

Stipulated Award  
NASD Dispute Resolution

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In the Matter of the Arbitration Between:

Name of the Claimant

Joseph L. Katz, as Power of Attorney for Esther D. Katz;

Case Number: 02-7411

Name of the Respondents

Merrill Lynch, Pierce, Fenner and Smith, Inc.  
Merrill Lynch Trust Company, FSB  
Mark Siegel  
Dianne Mehlinger  
J.L. Knight/ Warren

Hearing Site: Washington, DC

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Nature of the Dispute: Customer vs. Members and Associated Persons

REPRESENTATION OF PARTIES

Claimant Joseph L. Katz for Esther D. Katz ("Claimant") was represented by James H. West, Esq., West & Moore, LLC, Baltimore, Maryland.

Respondents Merrill Lynch Pierce Fenner and Smith ("Merrill Lynch"), Merrill Lynch Trust Company, FSB (the "Trust Company"), Dianne Mehlinger ("Mehlinger"), J.L. Knight/Warren ("JLKW") and Mark Siegel, hereinafter collectively referred to as "Respondents", were represented by Ira L. Oring, Esq., Fedder and Garten, P.A., Baltimore, Maryland

CASE INFORMATION

Statement of Claim filed on December 9, 2002.

Claimant Joseph L. Katz signed the Uniform Submission Agreement as power of attorney for Esther D. Katz on November 25, 2002.

None of the Respondents filed a Statement of Answer..

Respondent Mark Siegel signed the Uniform Submission Agreement on January 28, 2003.

Respondent Merrill Lynch did not file an executed Uniform Submission Agreement.

Respondent the Trust Company did not file an executed Uniform Submission Agreement.

Respondent Mehlinger did not file a Uniform Submission Agreement.

Respondent JLKW did not file a Uniform Submission Agreement.

### **CASE SUMMARY**

Claimants asserted the following causes of action, among others: breach of fiduciary duty, breach of contract, and negligence arising out of the management of the Trust account.

### **RELIEF REQUESTED**

Claimants in the Statement of Claim requested:

Compensatory Damages	amount unspecified
Punitive Damages	amount unspecified
Attorneys' Fees	amount unspecified

### **OTHER ISSUES CONSIDERED AND DECIDED**

Contemporaneously with the filing of this claim in arbitration, Claimant filed a Complaint in the Circuit Court for Montgomery County against Respondents (Case Number 23908 V), seeking to recover damages based upon the same theories asserted herein. The Parties ultimately stipulated to which parties were appropriate to proceed in this arbitration (Merrill Lynch, and Mark Siegel), and which parties were appropriate to proceed in the Circuit Court action (Merrill Lynch Trust Company, FSB, Dianne Mehlinger, and Robin Warren).

The Parties have fully and finally settled all claims by and between them. Therefore, the Parties submit this Stipulated Award to the Panel for its consideration and request that it be entered.

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

### **STIPULATED AWARD**

Pursuant to the above, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondent Merrill Lynch is liable to and shall pay Claimant compensatory damages in the amount of nine thousand nine hundred dollars and zero cents (\$9,900.00), as full and final settlement of all claims in this proceeding against Respondents Merrill Lynch Pierce Fenner & Smith, Inc. and Mark Siegel;
2. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Mark Siegel's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notices to Members 99-09 and 99-54, Respondent must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive;

3. The Parties shall bear their respective costs, including attorneys' fees, except as Fees are specifically addressed below; and
4. Any and all relief not specifically addressed herein, including punitive damages, is denied in its entirety.

### 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	= \$250
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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 firms that employed the associated person(s) at the time of the events giving rise to the dispute. Accordingly, Merrill Lynch is a party.

Member surcharge	= \$1,500.00
Pre-hearing process fee	= \$ 750.00
Total Member Fees	= \$2,250.00

### FEE SUMMARY

1. Claimant is assessed and shall pay the following fees:

Initial Filing Fee	= \$ 250.00
Total Fees	= \$ 250.00
Less payments	= \$1,575.00
Refund Due to Claimant	= \$1,325.00

2. Respondent Merrill Lynch is assessed and shall pay the following fees:

Member Fees	= \$2,250.00
Total Fees	= \$2,250.00
Less payments	= \$2,250.00
Balance Due NASD Dispute Resolution	= \$ 00.00

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

### SOLE ARBITRATOR


Glenn R. Lawrence, Esq.

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Public Arbitrator, Presiding Chairperson

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Arbitrator's Signature

  
Glenn R. Lawrence, Esq.

Glenn R. Lawrence 5/3/03  
Signature Date

5/4/04

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