
Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimants

Ladd and Kathy Stokes

Case Number: 02-07687

Name of the Respondents

Merrill Lynch Pierce Fenner & Smith Inc.
George E. Carson

Hearing Site: Oklahoma City, Oklahoma

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

REPRESENTATION OF PARTIES

Ladd and Kathy Stokes (Claimants) were represented by Jerry L. Colclazier, Esq., Colclazier & Associates, Seminole, Oklahoma.

Merrill Lynch Pierce Fenner & Smith Inc. and George E. Carson (Respondents) were represented by Bruce W. Day, Esq., Day, Edwards Propester & Christensen, P.C., Oklahoma City, Oklahoma.

CASE INFORMATION

The Statement of Claim was filed on or about December 20, 2002. The Submission Agreement of Claimants Ladd and Kathy Stokes was signed on or about December 12, 2002.

The Statement of Answer was filed by Respondents Merrill Lynch Pierce Fenner & Smith Inc. and George E. Carson on or about March 5, 2003. The Submission Agreement of Respondent Merrill Lynch Pierce Fenner & Smith Inc. was signed on or about March 3, 2003. The Submission Agreement of Respondent George E. Carson was signed on or about January 29, 2002.

CASE SUMMARY

Claimants asserted the following causes of action: Violation of Section 301 and 408(a)(1) of the Oklahoma Securities Act; Violation of Section 408(a) of the Oklahoma Securities Act; breach of contract; fraud; breach of fiduciary duty; negligence and gross negligence. The causes of action relate to the order execution of various stocks which included Mass Investors, ML Small Cap, Seligman Commun, Blackrock Mid Cap, Mass Investors Growth Stock, ML Internet Strategies, Alliance Select Investor Biotech CL C, Blackrock Mid Cap Gr Eq Port CL C, Mass Investors Growth Stock Fund Class C, Dreyfus Founders Discovery FD CL C, Ericson LM Tel Sek 10B ADR ERICY, Inktomi Corp., and ML Global Tech FD CL C. The claimants asserted that the Respondents made investments in numerous stocks without their advance approved authorization.

Unless specifically admitted in their Answer, Respondents Merrill Lynch Pierce Fenner & Smith Inc. and George E. Carson denied the allegations made in the Statement of Claim and asserted the following defenses: Claimants fail to state a claim upon which relief can be granted; Claimants' claims are barred because Merrill Lynch had a good faith basis for their recommendations, if any; Claimants' claims are barred because the risks inherent in the investments at issue were fully disclosed or known to them and they assumed those risks; Claimants' claims are barred because they failed to mitigate their damages; Claimants' claims are barred by the applicable statutes of limitations; Claimants' claims are barred because they suffered no damages by reason of the acts complained of in the Claim; Claimants' alleged damages, if any, were proximately caused by their own conduct; Claimants do not have a private right of action for alleged violation of NASD rules.

RELIEF REQUESTED

Claimants Ladd and Kathy Stokes requested:

Compensatory Damages	\$unspecified
Punitive Damages	\$unspecified
Interest	\$unspecified
Attorneys' Fees	\$unspecified
Other Costs	\$unspecified

Respondents Merrill Lynch Pierce Fenner & Smith and George E. Carson requested that the Arbitration Panel:

Deny the claim in its entirety, assess the costs and fees incurred in this action against the Claimants and expunge the record of Mr. Carson.

OTHER ISSUES CONSIDERED AND DECIDED

On July 22, 2003, the Claimants submitted a Motion to Compel. On August 1, 2003, the Respondents submitted their response. The Panel rejected the Motion to Compel and rejected the Confidentiality Order.

The parties submitted post-hearing briefs.

The parties have agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award may be entered. In either case, the parties have agreed to receive conformed copies of the award while the originals remain on file with the NASD Dispute Resolution (the "NASD").

AWARD

After considering the pleadings, the testimony and evidence presented at the hearing, and the post-hearing submissions, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. The claims asserted in this matter shall be and are hereby denied.
2. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Mr. Carson'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 George E. Carson must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.
3. That to the extent not specifically awarded or otherwise provided for above, all other claims and requests for relief by any party hereto are denied with prejudice.
4. Other than the Forum Fees noted below, the parties shall each bear all other costs and expenses incurred by them in connection with this proceeding, including but not limited to attorneys fees.

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	= \$ 250.00
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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 event giving rise to the dispute. Accordingly, Merrill Lynch Pierce Fenner & Smith Inc. is a party.

Member surcharge	= \$1,500.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$2,200.00

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 Panel @ \$1,000.00	= \$1,000.00
Pre-hearing conference: September 25, 2003 1 session	
Five (5) Hearing sessions @ \$1,000.00	= \$5,000.00
Hearing Dates: December 4, 2003 2 sessions	
December 5, 2003 3 sessions	
Total Forum Fees	= \$6,000.00

1. The Panel has assessed \$3,000.00 of the forum fees to Ladd and Kathy Stokes.
2. The Panel has assessed \$3,000.00 of the forum fees jointly and severally to Merrill Lynch Pierce Fenner & Smith Inc. and George E. Carson.

Fee Summary

Claimants, Ladd and Kathy Stokes, are solely liable for:

Initial Filing Fee	= \$ 250.00
Forum Fees	= \$3,000.00
Total Fees	= \$3,250.00
Less payments	= \$1,750.00
Balance Due NASD Dispute Resolution	= \$1,500.00

Respondent, Merrill Lynch Pierce Fenner & Smith Inc., is solely liable for:

Member Fees	= \$4,450.00
Total Fees	= \$4,450.00
Less payments	= \$4,450.00
Balance Due NASD Dispute Resolution	= \$ 000.00

Respondents, Merrill Lynch Pierce Fenner & Smith Inc. and George E. Carson, are jointly and severally liable for:

Forum Fee	= \$3,000.00
Balance Due NASD Dispute Resolution	= \$3,000.00

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

ARBITRATION PANEL

Rowland Denman	-	Public Arbitrator, Presiding Chairperson
David A. Laughlin	-	Public Arbitrator
Gerald J. Linehan	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

/s/ Rowland Denman
Rowland Denman
Public Arbitrator, Presiding Chairperson

01/06/04
Signature Date

/s/ David A. Laughlin
David A. Laughlin
Public Arbitrator

01/07/04
Signature Date

/s/ Gerald J. Linehan
Gerald J. Linehan
Non-Public Arbitrator

01/05/04
Signature Date

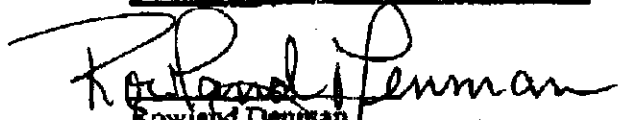
01/07/04
Date of Service (For NASD Dispute Resolution use only)

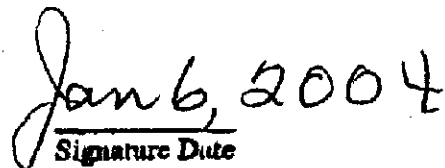
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• Non-Public Arbitrator

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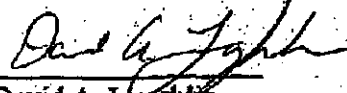
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Rowland Denman
Public Arbitrator, Presiding Chairperson

Signature Date



David A. Laughlin
Public Arbitrator

1-7-04

Signature Date

Gerald J. Linehan
Non-Public Arbitrator

Signature Date

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Rowland Denman
Public Arbitrator, Presiding Chairperson

Signature Date

David A. Laughlin
Public Arbitrator

Signature Date



Gerald J. Linehan
Non-Public Arbitrator

1/5/04
Signature Date

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