

**Stipulated Award  
NASD Dispute Resolution**

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In the Matter of the Arbitration Between:

Name of the Claimant:  
Delva A. Lite

Case Number: 02-07825

Names of the Respondents:  
Merrill Lynch, Pierce, Fenner & Smith, Inc.,  
Judy G. Camisa and Carlos Sosa

Hearing Site: Philadelphia, PA

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

**REPRESENTATION OF PARTIES**

Claimant, Delva A. Lite ("Claimant"), was represented by Benjamin Lapin, Esq., Stock Market Recovery Consultants, Inc., Brooklyn, New York.

Respondents, Merrill Lynch, Pierce, Fenner & Smith, Inc. ("Merrill Lynch"), Judy G. Camisa ("Camisa") and Carlos Sosa ("Sosa"), hereinafter collectively referred to as "Respondents," were represented by Daniel R. Korb, Jr., Esq., Bressler, Amery & Ross, P.C., New York, New York.

**CASE INFORMATION**

Statement of Claim filed on December 27, 2002.

Delva A. Lite signed the Uniform Submission Agreement on December 15, 2002.

Statement of Answer filed by Respondents on March 4, 2003.

A representative of Respondent Merrill Lynch signed the Uniform Submission Agreement on January 16, 2003.

Respondent Camisa signed the Uniform Submission Agreement on March 4, 2003.

Respondent Sosa signed the Uniform Submission Agreement on March 4, 2003.

**CASE SUMMARY**

Claimant in her Statement of Claim asserted the following causes of action: breach of fiduciary duty; negligence; unsuitability; breach of the NASD Rules of Fair practice; and, conflict of interest.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted the following defenses among others: failure to state a claim upon which relief can be granted; laches, waiver, ratification and estoppel; failure to mitigate damages; and, contributory/comparative negligence.

### **RELIEF REQUESTED**

Claimant requested the following damages:

Compensatory Damages	\$120,000.00
Punitive Damages	\$600,000.00
Attorney's fees and Costs	amount unspecified
Interest	amount unspecified

Respondents in their Statement of Answer requested that the Claimant's Statement of Claim be dismissed with prejudice as against Respondents with the costs associated with this arbitration proceeding assessed against Claimant.

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

Prior to the hearing, the parties fully and finally settled all claims by and between them. Therefore, the parties submit this Stipulated Award to the Arbitration Panel (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.

Respondents Camisa and Sosa were dismissed without prejudice on May 3, 2004.

### **AWARD**

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

1. The parties have amicably resolved their differences and have requested this Stipulated Award;
2. The Panel recommends the expungement of all reference to the above-captioned arbitration from Respondents Sosa's and Camisa'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 Sosa and Camisa 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.

### FEEES

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 = \$ 375.00

#### 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 is a party.

Member Surcharge	= \$ 2,250.00
Pre-Hearing Process Fee	= \$ 750.00
<u>Hearing Process Fee</u>	= \$ 4,000.00
Total Member Fees	= \$ 7,000.00

#### 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 session with a single arbitrator @ \$ 450.00 = \$ 450.00  
Pre-hearing conference: February 24, 2004 1 session

One (1) Pre-hearing conference sessions with the Panel @ \$1,200.000 = \$ 1,200.00  
Pre-hearing conference: October 3, 2003 1 session

Total Forum Fees = \$ 1,650.00

1. The Panel has assessed \$412.50 of the forum fees to Claimant.
2. The Panel has assessed \$412.50 of the forum fees to Respondent Merrill Lynch.
3. The Panel has assessed \$412.50 of the forum fees to Respondent Sosa.
4. The Panel has assessed \$412.50 of the forum fees to Respondent Camisa.

### Fee Summary

1. Claimant is assessed and shall pay:

Initial Filing Fee	= \$ 375.00
Forum Fees	= \$ 412.50
<u>Retained Hearing Session Deposit</u>	= \$ 787.50
Total Fees	= \$ 1,575.00
<u>Less payments</u>	= \$ 1,575.00
Balance Due NASD Dispute Resolution	= \$ 00.00

2. Respondent Merrill Lynch is assessed and shall pay:

Member Fees	= \$ 7,000.00
<u>Forum Fees</u>	= \$ 412.50
Total Fees	= \$ 7,412.50
<u>Less payments</u>	= \$ 7,000.00
Balance Due NASD Dispute Resolution	= \$ 412.50

3. Respondent Sosa is assessed and shall pay:

<u>Forum Fees</u>	= \$ 412.50
Total Fees	= \$ 412.50
<u>Less Payments</u>	= \$ 00.00
Balance Due NASD Dispute Resolution	= \$ 412.50

4. Respondent Camisa is assessed and shall pay:

<u>Forum Fees</u>	= \$ 412.50
Total Fees	= \$ 412.50
<u>Less Payments</u>	= \$ 00.00
Balance Due NASD Dispute Resolution	= \$ 412.50

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

**ARBITRATION PANEL**

Fred Pieroni	-	Public Arbitrator, Presiding Chairperson
Marilyn Chin	-	Public Arbitrator, Panelist
Martin Salzman	-	Non-Public Arbitrator, Panelist

**Concurring Arbitrators' Signatures**

Fred Pieroni  
Fred Pieroni  
Public Arbitrator, Presiding Chairperson

1.31.05  
Date

Marilyn Chin  
Marilyn Chin  
Public Arbitrator, Panelist

                      
Date

Martin Salzman  
Martin Salzman  
Industry Arbitrator, Panelist

                      
Date

2/2/05  
Date of Service (For NASD office use only)

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Marilyn Chin	-	Public Arbitrator, Panelist
Martin Salzman	-	Non-Public Arbitrator, Panelist

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Fred Pieroni  
Public Arbitrator, Presiding Chairperson

\_\_\_\_\_  
Date

*Marilyn Chin*  
\_\_\_\_\_  
Marilyn Chin  
Public Arbitrator, Panelist

*January 31, 2005*  
\_\_\_\_\_  
Date

\_\_\_\_\_  
Martin Salzman  
Industry Arbitrator, Panelist

\_\_\_\_\_  
Date

*2/2/05*

\_\_\_\_\_  
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Fred Pieroni  
Public Arbitrator, Presiding Chairperson

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Date

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Marilyn Chin  
Public Arbitrator, Panelist

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Date

*Martin Salzman*

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Martin Salzman  
Industry Arbitrator, Panelist

*1/31/05*

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Date

*2/2/05*

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Date of Service (For NASD office use only)