

**Stipulated Award**  
**NASD Dispute Resolution**

In the Matter of the Arbitration Between:

Name of the Claimant  
Richard W. Wolf a/k/a  
Richard Wolfe

Case Number: 03-00120

Names of the Respondents  
Merrill Lynch, Pierce, Fenner &  
Smith, Inc. and Sharon Kurgis

Hearing Site: Tampa, Florida.

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

**REPRESENTATION OF PARTIES**

Richard W. Wolf a/k/a Richard Wolfe, hereinafter referred to as "Claimant", appeared pro se.

For Respondent Merrill Lynch, Pierce, Fenner & Smith, Inc. ("Merrill") and Sharon Kurgis ("Kurgis"), hereinafter collectively referred to as "Respondents": Neil S. Baritz, Esq., Baritz & Coleman LLP, Boca Raton, Florida.

**CASE INFORMATION**

Statement of Claim filed on or about: January 6, 2003.

Statement of Response to Answer filed on or about: February 13, 2003.

Motion for Summary Judgment on the Issue of Liability filed on or about: November 3, 2003.

Claimant's reply to Respondents' Opposition to Claimant's Motion for Summary Judgment on the Issue of Liability filed on or about: December 5, 2003.

Claimant signed the Uniform Submission Agreement: January 3, 2003.

Statement of Answer and Motion to Dismiss filed by Respondents on or about: February 12, 2003.

Respondents' Opposition to Claimant's Motion for Summary Judgment on the Issue of Liability filed on or about: December 4, 2003.

Respondent Merrill signed the Uniform Submission Agreement: February 12, 2003.

Respondent Kurgis signed the Uniform Submission Agreement: January 22, 2003.

**CASE SUMMARY**

Claimant asserted his credit was damaged as a result of Respondent Merrill issuing payments charged to a closed Merrill account, the failure of a related party to file a satisfaction of lien on certain real estate owned by Claimant, and the failure of Respondents to correct the errors. The allegations do not relate to transactions in specific securities products in Claimant's account

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

### **RELIEF REQUESTED**

Claimant requested damages and related costs of \$4,000.00 and legal expenses of \$1,000.00.

Respondents requested that the Arbitrator issue an Award (1) dismissing the Statement of Claim in its entirety; (2) directing that the registration file of Respondent Kurgis be expunged of any references to this claim; and (3) that Claimant be ordered to pay all fees and costs in connection with this arbitration, together with such other and further relief as is deemed just and proper.

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

On or about December 12, 2003, the Arbitrator issued an Order which denied Claimant's Motion for Summary Judgment.

The parties settled the issues presented in their pleadings on or about December 15, 2003. As part of the settlement, Claimant agreed that the Form U-4 for Respondent Kurgis should have all references to this arbitration expunged therefrom, based on a variety of factors, including, but not limited to, the fact that there were no securities or transaction related claims at issue. In connection with the settlement of the claims, the parties represented that each of Claimant and Respondents shall be barred from bringing any action based on or including the claims for which this action has been or could have been brought; this matter be expunged from Respondent Kurgis' registration record maintained with the NASD Central Registration Depository ("CRD"); and that this matter be dismissed with prejudice as to all Respondents. The only issue presented to the Arbitrator was this Stipulated Award relating to expungement.

### **AWARD**

After considering the pleadings and the proposed Stipulated Award, the undersigned arbitrator (the "Arbitrator") has decided in full and final resolution of the issues submitted for determination as follows:

Claimant's withdrawal of his claims is accepted and Respondents are dismissed from this matter with prejudice.

The Arbitrator recommends the expungement of all references to the above captioned arbitration from Respondent Kurgis' registration records maintained by the NASD CRD, with the understanding that pursuant to NASD Notices to Members 99-09 and 99-54, Respondent Kurgis must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

### **FEES**

Pursuant to the NASD Code of Arbitration Procedure (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 = \$50.00

### **Member Fees**

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute. In this matter, the member firm is a party.

Member surcharge = \$200.00

### **Adjournment Fees**

Adjournments granted during these proceedings for which fees were assessed:

No requests for adjournments for which fees were assessed were granted in this matter.

### **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.

No injunctive relief fees were incurred in this matter.

### **Forum Fees and Assessments**

The Panel has assessed forum fees for each session conducted. A session is any meeting between the parties and the arbitrator(s), including a pre-hearing conference with the arbitrator(s), that lasts four (4) hours or less. Fees associated with these proceedings are:

One Pre-hearing session with a single arbitrator @ \$125.00	= \$125.00
Pre-hearing conference: June 12, 2003	1 session

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Total Forum Fees	= \$125.00
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The Arbitrator has assessed \$62.50 of the forum fees to Claimant.

The Arbitrator has assessed \$62.50 of the forum fees to Respondent Merrill.

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

No administrative costs were incurred in this matter.

**FEE SUMMARY**

Claimant is solely liable for:

Initial Filing Fee	= \$50.00
Forum Fees	= \$62.50
Retained Hearing Session Deposit pursuant to Rule 10332(f) of the Code	= \$62.50

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Total Fees	= \$175.00
Less payments	= \$175.00

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Balance Due NASD Dispute Resolution	= \$0.00
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Respondent Merrill is solely liable for:

Member Fees	= \$200.00
Forum Fees	= \$62.50

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Total Fees	= \$262.50
Less payments	= \$200.00

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Balance Due NASD Dispute Resolution	= \$62.50
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All balances are payable to NASD Dispute Resolution and are due upon receipt pursuant to Rule 10330(g) of the Code.

**ARBITRATOR**

Ronald A. Ronz, CPA

- Public Arbitrator, Presiding Chair

**Arbitrator's Signature**

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Ronald A. Ronz, CPA  
Public Arbitrator, Presiding Chair

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Signature Date

February 11, 2004  
Date of Service (For NASD Dispute Resolution office use only)

**FEE SUMMARY**

Claimant is solely liable for:

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Less payments	= \$200.00

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Balance Due NASD Dispute Resolution	= \$62.50
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All balances are payable to NASD Dispute Resolution and are due upon receipt pursuant to Rule 10330(g) of the Code.

**ARBITRATOR**

Ronald A. Ronz, CPA

Public Arbitrator, Presiding Chair

**Arbitrator's Signature**

  
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Ronald A. Ronz, CPA  
Public Arbitrator, Presiding Chair

2-5-04  
\_\_\_\_\_  
Signature Date

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