

**Stipulated Award
NASD Dispute Resolution**

COPY

In the Matter of the Arbitration Between:

Fredrick Ashouri and Elfriede Ashouri, Claimants v. Merrill Lynch, Pierce, Fenner and Smith, Inc. and Thomas S. Lowey, Respondents

Case Number: 03-01159

Hearing Site: San Francisco, California

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

REPRESENTATION OF PARTIES

For Claimants:

Stephan C. Williams, Esq.
Law Offices of Stephan C. Williams
Walnut Creek, California

For Respondents:

Philip A. McLeod, Esq.
Benjamin W. White, Esq.
Keesal, Young & Logan
San Francisco, California

CASE INFORMATION

Statement of Claim filed: February 12, 2003

Claimants' Uniform Submission Agreement signed: February 8, 2003

Joint Statement of Answer filed by Respondents Merrill Lynch, Pierce, Fenner and Smith, Inc. ("Merrill Lynch") and Thomas S. Lowey: May 12, 2003

Respondent Merrill Lynch's Uniform Submission Agreement signed: May 15, 2003

Respondent Thomas S. Lowey's Uniform Submission Agreement signed: May 12, 2003

CASE SUMMARY

Claimants' Statement of Claim complains of transactions effected in Claimants' accounts by Mr. Lowey, a former representative of Merrill Lynch, and alleges that Respondents are liable to Claimants for the losses sustained in Claimants' Merrill Lynch accounts. Claimants also allege that this dispute involves investments in high technology stocks. No securities were specified in the Statement of Claim.

Respondents denied the allegations of wrongdoing set forth in the Claimants' Statement of Claim and asserted affirmative defenses.

RELIEF REQUESTED

Claimants requested actual damages in the amount of at least \$450,000 plus interest, as well as emotional distress damages and punitive damages in the amount of \$6,000,000 and reimbursement for costs and attorney's fees incurred in bringing this arbitration.

Respondents requested dismissal of the Claimants' Statement of Claim in its entirety and an award of costs. Respondent Thomas S. Lowey also requested an expungement of all reference to the above captioned arbitration from his registration record maintained by the NASD Central Registration Depository.

OTHER ISSUES CONSIDERED AND DECIDED

On May 30, 2003, Claimants and Claimants' counsel signed a Waiver Agreement expressly waiving any and all rights and benefits under California Civil Code Section 1542 and the California Ethical Standards for Neutral Arbitrators. Pursuant to the Code of Arbitration Procedure IM-10100 the waiver of the Claimants shall constitute and operate as a waiver for all member firms and associated persons (including terminated or otherwise inactive member firms or associated persons) against whom the Claim has been filed.

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

STIPULATED DEMAND AND RECOMMENDATION OF EXPUNGEMENT

The parties hereby stipulate that all claims asserted by the Claimants against Merrill Lynch and Thomas S. Lowey have been resolved.

The parties also request that the Panel recommend the expungement of all reference to the above captioned arbitration from Respondent Thomas S. Lowey's registration record maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 99-09, Respondent Thomas S. Lowey must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

AWARD

After considering the preceding Stipulation of the parties, the Panel has decided in full and final resolution of the issues submitted for determination, as follows:

1. The Panel notes the parties' stipulation that all claims asserted by the Claimants against Merrill Lynch and Thomas S. Lowey have been resolved.
2. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Thomas S. Lowey's registration record maintained by the CRD, with the understanding that pursuant to NASD Notice to Members 99-09, Respondent Thomas S. Lowey must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.
3. Each party shall bear its own costs, including attorney's fees.
4. All other relief not expressly granted is denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD-DR received or will collect the non-refundable filing fees for each claim as follows:

| | |
|--------------------------|------------|
| Initial claim filing fee | = \$600.00 |
|--------------------------|------------|

Member Fees

Member fees are assessed to each member firm that is either a party in the matter or an employer of a respondent associated person at the time of the events that gave rise to the dispute, claim, or controversy. Accordingly, the member firm Merrill Lynch is a party and the following fees are assessed:

| | |
|----------------------------|---------------------|
| Member Surcharge | = \$3,350.00 |
| Pre-Hearing Process Fee | = \$ 750.00 |
| <u>Hearing Process Fee</u> | <u>= \$5,500.00</u> |
| Total Member Fees | = \$9,600.00 |

Adjournment Fees

The Following adjournment fees are assessed:

The parties agreed to split the \$1,200.00 adjournment fee in connection with the adjourned hearing dates of February 10-13, 2004.

Forum Fees and Assessments

The Panel assessed a forum fee for each pre-hearing conference or hearing session conducted. A pre-hearing conference and hearing session is any meeting between the parties and the Chair/Panel. The following fees are assessed:

(1) Pre-hearing conference session with the Panel @ \$1,200.00/session = \$1,200.00
Pre-hearing conference: August 26, 2003 1 session

Total Forum Fees = \$1,200.00

The Parties agreed to split the forum fees totaling \$1,200.00.

Administrative Costs

Administrative costs are expenses incurred because a party requested additional services beyond the normal administrative services. These additional services include, but are not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, security, and other requests.

The parties did not incur administrative costs.

Fee Summary

1. Claimants are charged with the following fees and costs:

| | |
|-----------------------------|------------------------|
| Initial Filing Fee | = \$ 600.00 |
| Adjournment Fee | = \$ 600.00 |
| Forum Fees | = \$ 600.00 |
| <u>Administrative Costs</u> | <u>= \$ 0.00</u> |
| Total Fees | = \$ 1,800.00 |
| <u>Less Payments</u> | <u>= \$ (1,800.00)</u> |
| Balance Due NASD-DR | = \$ 0.00 |

2. Respondent Merrill Lynch is charged with the following fees and costs:

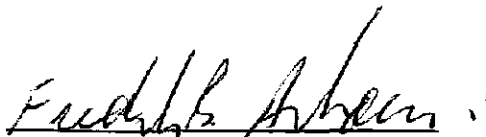
| | |
|-----------------------------|------------------------|
| Member Fees | = \$ 9,600.00 |
| <u>Administrative Costs</u> | <u>= \$ 0.00</u> |
| Total Fees | = \$ 9,600.00 |
| <u>Less Payments</u> | <u>= \$ (9,600.00)</u> |
| Balance Due NASD-DR | = \$ 0.00 |

3. Respondents Merrill Lynch and Lowey are jointly and severally charged with the following fees and costs:

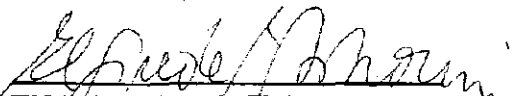
| | |
|-----------------------------|---------------------|
| Adjournment Fee | = \$ 600.00 |
| Forum Fees | = \$ 600.00 |
| <u>Administrative Costs</u> | <u>= \$ 0.00</u> |
| Total Fees | = \$ 1,200.00 |
| <u>Less Payments</u> | <u>= \$ (0.00)</u> |
| Balance Due NASD-DR | = \$ 1,200.00 |

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

Parties' Signatures


Fredrick Ashouri, Claimant

4/20/04
Signature Date


Elfriede Ashouri, Claimant

4/21/04
Signature Date

Deborah Corrigan
Merrill Lynch, Pierce, Fenner & Smith, Inc.,
Respondent

Signature Date

3. Respondents Merrill Lynch and Lowey are jointly and severally charged with the following fees and costs:

| | |
|----------------------|---------------|
| Adjournment Fee | = \$ 600.00 |
| Forum Fees | = \$ 600.00 |
| Administrative Costs | = \$ 0.00 |
| Total Fees | = \$ 1,200.00 |
| Less Payments | = \$ (0.00) |
| Balance Due NASD-DR | = \$ 1,200.00 |

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

Parties' Signatures

Fredrick Ashouri, Claimant

Signature Date

Elfriede Ashouri, Claimant

Signature Date



Deborah Corrigan
Merrill Lynch, Pierce, Fenner & Smith, Inc.,
Respondent

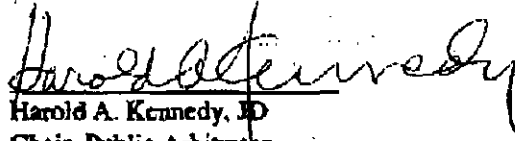
4/1/04
Signature Date

ARBITRATION PANEL

Harold A. Kennedy, JD
Bruce T. Mitchell, Esq.
Carlos Richard Mangum

Public Arbitrator, Presiding Chair
Public Arbitrator
Non-Public Arbitrator

Concurring Arbitrators' Signatures


Harold A. Kennedy, JD
Chair, Public Arbitrator

5-10-04
Signature Date

Bruce T. Mitchell, Esq.
Public Arbitrator

Signature Date

Carlos Richard Mangum
Non-Public Arbitrator

Signature Date

6/02/04
Date of Service

ARBITRATION PANEL

Harold A. Kennedy, JD
Bruce T. Mitchell, Esq.
Carlos Richard Mangum

Public Arbitrator, Presiding Chair
Public Arbitrator
Non-Public Arbitrator

Concurring Arbitrators' Signatures

Harold A. Kennedy, JD
Chair, Public Arbitrator



Bruce T. Mitchell, Esq.
Public Arbitrator

Signature Date

May 11, 2004

Signature Date

Carlos Richard Mangum
Non-Public Arbitrator

Signature Date

10/02/04

Date of Service

ARBITRATION PANEL

| | | |
|-------------------------|---|------------------------------------|
| Harold A. Kennedy, JD | - | Public Arbitrator, Presiding Chair |
| Bruce T. Mitchell, Esq. | - | Public Arbitrator |
| Carlos Richard Mangum | - | Non-Public Arbitrator |


Concurring Arbitrators' Signatures

Harold A. Kennedy, JD
Chair, Public Arbitrator

Signature Date

Bruce T. Mitchell, Esq.
Public Arbitrator

Signature Date



Carlos Richard Mangum
Non-Public Arbitrator

5-10-04

Signature Date

6/02/04

Date of Service