

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Names of the Claimants

Yvette B. Moore
William E. Moore, Jr.

Case Number: 03-01464

Name of the Respondent

Merrill Lynch

Hearing Site: Atlanta, Georgia

Nature of the Dispute: Customer vs. Member.

REPRESENTATION OF PARTIES

For Yvette B. Moore and William E. Moore, Jr., hereinafter collectively referred to as "Claimants": William E. Moore, Jr.

For Merrill Lynch, hereinafter referred to as "Respondent": Daniel Boland, Esq. and Scott N. Sherman, Esq., Sutherland Asbill & Brennan LLP, Atlanta, Georgia.

CASE INFORMATION

Statement of Claim filed on or about: February 27, 2003.

Claimants signed the Uniform Submission Agreement: February 24, 2003.

Statement of Answer filed by Respondent on or about: May 27, 2003.

Respondent signed the Uniform Submission Agreement: June 5, 2003.

Respondent's Motion to Dismiss filed on or about: May 13, 2004.

Claimants' Response to Respondent's Motion to Dismiss filed on or about: May 21, 2004.

Claimants' Supplemental Response to Respondent's Motion to Dismiss filed on or about: May 24, 2004.

Respondent's Reply Brief in Support of its Motion to Dismiss filed on or about: May 28, 2004.

Respondent's Motion to Strike filed on or about: June 11, 2004.

Respondent's Motion to Exclude Settlement Agreement and Press Release filed on or about: June 11, 2004.

Claimants' Response to Respondent's Motion to Strike filed on or about: June 17, 2004.

Claimants' Response to Respondent's Motion to Exclude Settlement Agreement and Press Release filed on or about: June 17, 2004.

CASE SUMMARY

Claimants asserted the cause of action of negligent misrepresentation. Claimants alleged they relied on the advice of their Merrill broker in purchasing shares of stock of Internet Capital Group, Inc. ("ICGE") who, in turn, relied on research reports issued by a Merrill analyst. Claimants alleged the research reports were less than truthful and they suffered losses as a result. The cause of action relates to Claimants' investments in shares of ICGE.

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

RELIEF REQUESTED

Claimants requested damages of \$27,539.19, punitive damages of \$27,539.19, interest at the rate of 8% for 210 days in the sum of \$1,267.55 and reimbursement of the fees paid to NASD Dispute Resolution of \$975.00.

Respondent requested that the Panel reject Claimants' Statement of Claim in its entirety and order that all costs of this arbitration be borne by Claimants.

OTHER ISSUES CONSIDERED AND DECIDED

On or about June 3, 2004, the arbitration panel issued an order which denied Respondent's Motion to Dismiss.

At the commencement of the evidentiary hearing on June 22, 2004, the arbitration panel issued an order which granted Respondent's Motion to Exclude Settlement Agreement and Press Release.

At the commencement of the evidentiary hearing on June 22, 2004, Claimants withdrew their request for punitive damages.

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

AWARD

After considering the pleadings, the testimony and evidence presented at the hearing, and the post-hearing submissions (if any), the undersigned arbitrators (the "Panel") have decided in full and final resolution of the issues submitted for determination as follows:

Respondent is liable and shall pay to Claimants the sum of \$27,539.19 plus interest at the rate of 8% for 210 days in the sum of \$1,267.55.

Respondent is liable and shall pay to Claimants the sum of \$225.00 representing reimbursement of the claim filing fee previously paid by Claimants to NASD Dispute Resolution.

Any and all claims for relief not specifically addressed herein are denied.

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 = \$225.00

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 = \$1,100.00

Pre-hearing process fee = \$750.00

Hearing process fee = \$1,700.00

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:

Two (2) Pre-hearing sessions with the Panel @ \$750.00 = \$1,500.00

Pre-hearing conferences: September 26, 2003 1 session
June 3, 2004 1 session

Two (2) Hearing sessions @ \$750.00 = \$1,500.00

Hearing Date: June 22, 2004 2 sessions

Total Forum Fees = \$3,000.00

The Panel has assessed the total forum fees of \$3,000.00 to Respondent.

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

Claimants are jointly and severally liable for:

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|--------------------|------------|
| Initial Filing Fee | = \$225.00 |
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| Total Fees | = \$225.00 |
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| Less payments | = \$225.00 |
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|-------------------------------------|----------|
| Balance Due NASD Dispute Resolution | = \$0.00 |
|-------------------------------------|----------|

Respondent is solely liable for:

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|-------------|--------------|
| Member Fees | = \$3,550.00 |
|-------------|--------------|

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|------------|--------------|
| Forum Fees | = \$3,000.00 |
|------------|--------------|

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| Total Fees | = \$6,550.00 |
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|---------------|--------------|
| Less payments | = \$3,550.00 |
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|-------------------------------------|--------------|
| 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

| | | |
|-------------------------|---|------------------------------------|
| Harriet H. Harris, Esq. | - | Public Arbitrator, Presiding Chair |
| Ralph S. Paden | - | Public Arbitrator |
| Michael J. Stern | - | Non-Public Arbitrator |

Concurring Arbitrators' Signatures

_____/S/_____
Harriet H. Harris, Esq.
Public Arbitrator, Presiding Chair

Signature Date

_____/S/_____
Ralph S. Paden
Public Arbitrator

Signature Date

_____/S/_____
Michael J. Stern
Non-Public Arbitrator

Signature Date

July 1, 2004
Date of Service (For NASD Dispute Resolution office use only)

arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

No administrative costs were incurred in this matter.

FEE SUMMARY

Claimants are jointly and severally liable for:

Initial Filing Fee = \$225.00

Total Fees = \$225.00

Less payments = \$225.00

Balance Due NASD Dispute Resolution = \$0.00

Respondent is solely liable for:

Member Fees = \$3,550.00

Forum Fees = \$3,000.00

Total Fees = \$6,550.00

Less payments = \$3,550.00

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

| | | |
|-------------------------|---|------------------------------------|
| Harriet H. Harris, Esq. | - | Public Arbitrator, Presiding Chair |
| Ralph S. Paden | - | Public Arbitrator |
| Michael J. Stern | - | Non-Public Arbitrator |

Concurring Arbitrators' Signatures

Harriet H. Harris
Harriet H. Harris, Esq.
Public Arbitrator, Presiding Chair

6-24-04
Signature Date

Ralph S. Paden
Ralph S. Paden
Public Arbitrator

Signature Date

arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

No administrative costs were incurred in this matter.

FEE SUMMARY

Claimants are jointly and severally liable for:

| | |
|--------------------|------------|
| Initial Filing Fee | = \$225.00 |
|--------------------|------------|

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|------------|------------|
| Total Fees | = \$225.00 |
|------------|------------|

| | |
|---------------|------------|
| Less payments | = \$225.00 |
|---------------|------------|

| | |
|-------------------------------------|----------|
| Balance Due NASD Dispute Resolution | = \$0.00 |
|-------------------------------------|----------|

Respondent is solely liable for:

| | |
|-------------|--------------|
| Member Fees | = \$3,550.00 |
|-------------|--------------|

| | |
|------------|--------------|
| Forum Fees | = \$3,000.00 |
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|------------|--------------|
| Total Fees | = \$6,550.00 |
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|---------------|--------------|
| Less payments | = \$3,550.00 |
|---------------|--------------|

| | |
|-------------------------------------|--------------|
| 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

Harriet H. Harris, Esq.

-

Public Arbitrator, Presiding Chair

Ralph S. Paden

-

Public Arbitrator

Michael J. Stern

-

Non-Public Arbitrator

Concurring Arbitrators' Signatures

Harriet H. Harris, Esq.

Public Arbitrator, Presiding Chair



Ralph S. Paden
Public Arbitrator

Signature Date

6-29-04

Signature Date

LAMON & STERN, INC.

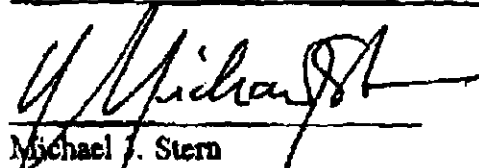
NASD Dispute Resolution

Arbitration No. 03-01464

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Jun 24 '04

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Michael J. Stern
Non-Public Arbitrator

6/24/04

Signature Date

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