

Stipulated Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Raphael Lentino (Claimant) v. Merrill Lynch, Pierce, Fenner & Smith, Inc. and Gerald R. Browne (Respondents)

Case Number: 03-01483

Hearing Site: New York, New York

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

REPRESENTATION OF PARTIES

Claimant Raphael Lentino ("Lentino") hereinafter referred to as "Claimant": John E. Lawlor, Esq., New York, NY.

Respondents Merrill Lynch, Pierce, Fenner & Smith, Inc. ("Merrill Lynch") and Gerald R. Browne ("Browne") hereinafter collectively referred to as "Respondents": Lawrence D. Ross, Esq., Bressler, Amery & Ross, P.C., New York, NY.

CASE INFORMATION

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

Claimant signed the Uniform Submission Agreement: April 11, 2002.

Statement of Answer filed by Respondents on or about: June 4, 2003.

Respondent Merrill Lynch signed the Uniform Submission Agreement: March 27, 2003.

Respondent Browne signed the Uniform Submission Agreement: July 6, 2003.

CASE SUMMARY

Claimant asserted the following causes of action: unauthorized trading; unsuitability; failure to supervise; common law fraud; and breach of fiduciary duty. The causes of action relate to shares of AOL, Broadcom, Cisco, EMC, JDS Uniphase, Nortel, Texas Instruments, Oracle, Sun Microsystems, Merrill Lynch Focus 20 Technology Fund, Merrill Lynch Global Technology Fund, and Merrill Lynch Internet Strategies Fund, among others.

Unless specifically admitted in its Answer, Respondents denied the allegations of wrongdoing set forth in the Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

Claimant requested compensatory damages in the amount of \$300,000.00; interest from August

28, 2000; costs and disbursements, including reasonable attorneys' fees; and such other and further relief as the Arbitrators deem appropriate.

Respondents requested that Claimant's claim be dismissed, and any notation on Respondent Browne's record be expunged.

OTHER ISSUES CONSIDERED AND DECIDED

On or about September 13, 2004, Claimant dismissed all claims against Respondent Browne with prejudice. Claimant and Respondent Merrill Lynch settled the remaining claims.

The parties agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award may be entered.

AWARD

The parties entered into an agreement to present to the Panel a Stipulated Award. Now, in lieu of a hearing and upon motion of both parties for an entry of an award, the written stipulation thereto, the Panel grants the motion and enters this award granting the following relief:

1. All claims against Respondent Browne are dismissed with prejudice.
2. Claimant and Respondent Merrill Lynch have entered into a confidential settlement agreement, and the parties are directed to comply therewith. All claims against Respondent Merrill Lynch are dismissed with prejudice.
3. Because the parties have settled the case prior to hearings discharging Respondent Browne of any liability, the Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Browne'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 Browne must obtain confirmation from a court of competent jurisdiction before CRD will execute the expungement directive. However, the Panel makes no specific findings of fact, noting that this arbitration was filed prior to the application of Rule 2130.
4. Each party shall bear its own costs and expenses associated with the above-referenced arbitration.
5. Any and all relief not specifically addressed herein is denied.

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 = \$ 300.00

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 person at the time of the events giving rise to the dispute. In this matter, Merrill Lynch, Pierce, Fenner & Smith, Inc. is a party.

Member Surcharge	= \$1,700.00
Pre-Hearing Process Fee	= \$ 750.00
<u>Hearing Process Fee</u>	<u>= \$2,750.00</u>
Total Member Fees	= \$5,200.00

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 the Panel @ \$1,125.00/session	= \$1,125.00
Pre-hearing conference: December 3, 2003 1 session	

Two (2) Hearing sessions @ \$1,125.00/session	= \$2,250.00
<u>Hearing: September 13, 2004 2 sessions</u>	<u></u>
Total Forum Fees	= \$3,375.00

1. The Panel has assessed \$1,125.00 of the forum fees against Claimant.
2. The Panel has assessed \$2,250.00 of the forum fees against Respondent Merrill Lynch.

Fee Summary

1. Claimant is solely liable for:

Initial Filing Fee	= \$ 300.00
Forum Fees	= \$1,125.00
Total Fees	= \$1,425.00
<u>Less payments</u>	<u>= \$1,425.00</u>
Balance Due NASD Dispute Resolution	= \$ 0.00

2. Respondent Merrill Lynch is solely liable for:

Member Fees	= \$5,200.00
Forum Fees	= \$2,250.00
Total Fees	= \$7,450.99
<u>Less payments</u>	<u>= \$5,200.00</u>
Balance Due NASD Dispute Resolution	= \$2,250.00

All balances are due and payable to NASD Dispute Resolution

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Arbitration No. 03-01483
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Parties' Signatures


Raphael Lentino
Claimant

9/28/04
Signature Date

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

Signature Date

Gerald R. Browne
Respondent

Signature Date

NASD Dispute Resolution
Arbitration No. 03-01483
Award Page 5 of 6

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Claimant

Signature Date



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



Signature Date

Gerald R. Browne
Respondent

Signature Date

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Raphael Lentino
Claimant

Signature Date

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

Signature Date

Gerald R. Browne
Gerald R. Browne
Respondent


9-23-04
Signature Date

ARBITRATION PANEL

Evelokia Sofis, Esq.	-	Public Arbitrator, Presiding Chair
Saverio J. Citta	-	Public Arbitrator
William E.S. Browning, Esq.	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

I, the undersigned arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument is which is my award.



Evelokia Sofis, Esq.
Public Arbitrator, Presiding Chair

12-17-04

Signature Date

Saverio J. Citta
Public Arbitrator

Signature Date

William E.S. Browning, Esq.
Non-Public Arbitrator

Signature Date

December 29, 2004

Date of Service (For NASD office use only)

ARBITRATION PANEL

Evdokia Sofos, Esq.	-	Public Arbitrator, Presiding Chair
Saverio J. Cina	-	Public Arbitrator
William E.S. Browning, Esq.	-	Non-Public Arbitrator

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I, the undersigned arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument is which is my award.

Evdokia Sofos, Esq.
Public Arbitrator, Presiding Chair

Signature Date


Saverio J. Cina
Public Arbitrator


Signature Date

William E.S. Browning, Esq.
Non-Public Arbitrator

Signature Date

December 29, 2004
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Concurring Arbitrators' Signatures

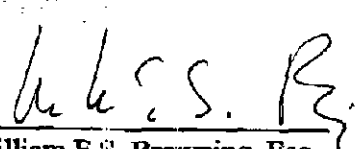
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Public Arbitrator, Presiding Chair

Signature Date

Saverio J. Cina
Public Arbitrator

Signature Date



William E.S. Browning, Esq.
Non-Public Arbitrator



Signature Date

December 29, 2004

Date of Service (For NASD office use only)