
Stipulated Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Names of the Claimants

Francis Reilly
Caroline Reilly

Case Number: 03-01663

Names of the Respondents

Merrill Lynch, Pierce, Fenner & Smith, Inc.
Anthony DiNallo

Hearing Site: Tampa, Florida

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

REPRESENTATION OF PARTIES

For Francis Reilly and Caroline Reilly, hereinafter referred to as "Claimants": Pete S. Michaels, Esq. and Derek Anderson, Esq., Murphy & Michaels, LLP, Boston, Massachusetts.

For Merrill Lynch, Pierce, Fenner & Smith, Inc. ("Merrill Lynch") and Anthony DiNallo ("DiNallo"), hereinafter collectively referred to as "Respondents": Richard L. Martens, Esq. and Jason S. Haselkorn, Esq., Boose Casey Ciklin Lubitz Martens McBane & O'Connell, West Palm Beach, Florida.

CASE INFORMATION

Statement of Claim filed on or about: February 28, 2003.

Claimants signed the Uniform Submission Agreement.

Statement of Answer filed by Respondents on or about: May 6, 2003.

Respondent Merrill Lynch signed the Uniform Submission Agreement: July 2, 2003.

Respondent DiNallo did not file a signed Uniform Submission Agreement.

CASE SUMMARY

Claimants asserted the following causes of action: 1) violation of federal and state securities laws; 2) negligence; 3) breach of fiduciary duty; 4) fraud and misrepresentation; 5) violation of industry rules and regulations; and, 6) failure to supervise. The causes of action relate to the purchase and sale of various individual stocks, mutual funds and a variable annuity in Claimants' account, including, but not limited to, America Online, Broadband Holders, Nortel, Vodafone, Nokia, JDS Uniphase, ML Focus Twenty, Munder Future Technology Fund, MFS Emerging Growth, AIM Constellation and Alliance Premier Growth.

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

RELIEF REQUESTED

Claimants requested compensatory damages in the amount of \$700,000.00, costs, attorney's fees, rescission of the variable annuity and statutory interest.

Respondents requested that the Statement of Claim be dismissed in its entirety and an award of costs, expenses, attorney's fees and such further relief as the Panel deemed just and proper. In addition, Respondents requested that the Panel enter an order expunging this matter from the NASD Central Registration Depository (the "CRD") record of Respondent DiNallo.

OTHER ISSUES CONSIDERED AND DECIDED

Respondent DiNallo did not file with NASD Dispute Resolution a properly executed submission to arbitration but is required to submit to arbitration pursuant to the NASD Code of Arbitration Procedure (the "Code") and, having answered the claim, is bound by the determination of the Panel on all issues submitted.

On or about April 5, 2004, NASD Dispute Resolution was notified that the parties would be sending in a notice of dismissal of this matter and submitting a proposed Stipulated Award with a Stipulation to Dismiss and a request for expungement of the NASD CRD record of Respondent DiNallo.

On or about May 17, 2004, the parties submitted to NASD Dispute Resolution a proposed Stipulated Award with a request for the expungement of the NASD CRD record of Respondent DiNallo. The parties stated that this matter involved disputed claims and was settled by the parties prior to the final arbitration hearing. Prior to settlement, the individual Respondent was dismissed, with prejudice from this action. As such, no evidence was submitted to this Panel demonstrating the individual Respondent is culpable of any wrongdoing. Accordingly, all references to this arbitration proceeding shall be expunged from the NASD CRD record of Respondent DiNallo. Furthermore, the parties stipulated and agreed that this matter be dismissed, with prejudice and that Claimants and Respondents, as to each other, shall bear their respective costs and attorneys fees. Said dismissal shall be a bar to the bringing of any action based on or including the claims, third-party claims or counterclaims for which these actions have been or could have been brought against Respondents by the Claimants or against the Claimants by the Respondents.

On or about June 10, 2004, the parties submitted to NASD Dispute Resolution a final notice of settlement.

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

AWARD

After considering the pleadings, the proposed Stipulated Award with Stipulation to Dismiss and request for expungement, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

Claimants' withdrawal of the claims against Respondents, with prejudice is accepted and Respondents are dismissed from this matter.

The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent DiNallo'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 DiNallo must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive

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	= \$ 375.00
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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. Accordingly, Respondent Merrill Lynch is a party to this dispute and was a member of NASD at the time the following fees were assessed:

Member surcharge	= \$2,250.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$4,000.00

Adjournment Fees

No requests for adjournments were filed in this matter.

Three-Day Cancellation Fees

Fees apply when a hearing on the merits is postponed or settled within three business days before the start of a scheduled hearing session:

No cancellation fees were assessed in this matter.

Injunctive Relief Fees

No injunctive relief fees were incurred during this proceeding.

Forum Fees and Assessments

The Panel has assessed forum fees for each session conducted. A 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. Fees associated with these proceedings are:

One (1) Pre-hearing session with the Panel @ \$1,200.00	= \$1,200.00
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Pre-hearing conference: October 14, 2003 1 session

Total Forum Fees = \$1,200.00

The Panel has assessed \$600.00 of the forum fees jointly and severally to Claimants.

The Panel has assessed \$600.00 of the forum fees jointly and severally to Respondents.

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 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 during this proceeding.

Fee Summary

Claimants are jointly and severally liable for:

Initial Filing Fee	= \$ 375.00
Forum Fees	= \$ 600.00
Total Fees	= \$ 975.00
Less payments	= \$ 975.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondent Merrill Lynch is solely liable for:

Member Fees	= \$ 7,000.00
Total Fees	= \$ 7,000.00
Less payments	= \$ 7,000.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondents are jointly and severally liable for:

Forum Fees	= \$ 600.00
Total Fees	= \$ 600.00
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 600.00

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

ARBITRATION PANEL

Dolores Alfano	-	Public Arbitrator, Presiding Chairperson
William H. Fleece, JD	-	Public Arbitrator
Ben E. Fisher	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

/s/
Dolores Alfano
Public Arbitrator, Presiding Chairperson

10/22/04
Signature Date

/s/
William H. Fleece, JD
Public Arbitrator

10/23/04
Signature Date

/s/
Ben E. Fisher
Non-Public Arbitrator

10/25/04
Signature Date

10/29/04
Date of Service (For NASD Dispute Resolution office use only)

Concurring Arbitrators' Signatures

Dolores Alfano
Dolores Alfano
Public Arbitrator, Presiding Chairperson

oct 22, 2004
Signature Date

William H. Fleece, JD
Public Arbitrator

Signature Date

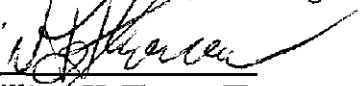
Ben E. Fisher
Non-Public Arbitrator

Signature Date

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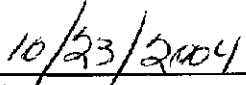
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Public Arbitrator

Signature Date



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Non-Public Arbitrator

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Public Arbitrator

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Non-Public Arbitrator



Signature Date

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