

STIPULATED AWARD
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Claimants

Robert A. Voydat and Rhonda L. Voydat

v.

Case Number: 03-01722
Hearing Site: Denver, Colorado

Respondents

Merrill Lynch, Pierce, Fenner & Smith, Inc.,
David L. Kopp, Jodi T. Rolland and
Edward G. Schrandt

Nature of Dispute: Customers v. Member Firm and Associated Persons

REPRESENTATION OF PARTIES

Robert A. Voydat and Rhonda L. Voydat, ("**Claimants**") were represented by Miles M. Gersh, Esq., of Gersh & Helfrich, LLP, Denver, Colorado.

Merrill Lynch Pierce Fenner & Smith, Inc. ("**Merrill Lynch**"), David L. Kopp ("**Kopp**") and Edward G. Schrandt ("**Schrandt**") hereafter referred to as "Respondents," were represented by Ted Poretz, Esq., of Bingham McCutchen LLP, New York, New York.

Jodi Rolland ("**Rolland**") did not appear.

CASE INFORMATION

The Statement of Claim was filed on or about March 11, 2003. The Uniform Submission Agreement was signed by Claimants on or about March 4, 2003.

A Statement of Answer was filed jointly by Respondents, Merrill Lynch Pierce Fenner & Smith, Inc., David L. Kopp and Edward G. Schrandt, on or about June 6, 2003.

CASE SUMMARY

Claimants asserted the following causes of action: violations of applicable state and federal securities laws; negligent or intentional misrepresentation under Colorado common law; negligence under Colorado common law; violations of applicable NASD rules and regulations, including those related to suitability; breach of fiduciary duty; breach of duty of due care; breach of duty of reasonable and appropriate supervision; and liability under the doctrines of respondeat superior and control person liability. The causes of action related to the recommendations regarding stock options

of one high-tech company, Network Alliance, Inc.

Respondents denied the allegations made in the Statement of Claim and asserted the following defenses: Claimants failed to state any claim upon which relief could be granted; Respondents, at all times, acted properly and in good faith; Claimants made all of the investment decisions with regard to their accounts; Claimants failed to mitigate damages; all transactions recommended to Claimants were suitable and in accordance with their stated objectives and financial condition; the risks inherent in the investments at issue were fully disclosed or known to Claimants; Claimants directed and authorized all strategies employed and transactions executed in their accounts; Merrill Lynch maintained an adequate and reasonable system of supervision; and Claimants have no private right of action for alleged violations NASD or NYSE Rules.

RELIEF REQUESTED

In the Statement of Claim, Claimants requested:

Actual /Compensatory Damages	\$3,600,000.00
Punitive/Exemplary Damages	Unspecified
Interest	Unspecified
Attorney's Fees	Unspecified
Other Costs	Unspecified
Other Monetary Relief	Unspecified

Respondents requested that the claims asserted against them be denied in their entirety, that they be awarded their costs and attorneys' fees, and that the Panel recommend that all the references to this matter be expunged from the CRD records of Respondents, David L. Kopp, Edward G. Schrandt and Jodi T. Rolland.

OTHER ISSUES CONSIDERED & DECIDED

Respondents, Merrill Lynch Pierce Fenner & Smith, Inc., David Kopp, and Edward Schrandt, did not file with NASD Dispute Resolution properly executed submissions to arbitration but are required to submit to arbitration pursuant to Rule 10301 of the NASD Code of Arbitration Procedure (the "Code") and having answered the claim, and appeared and testified through counsel at the pre-hearing conferences are bound by the determination of the arbitration panel on all issues submitted.

On or about May 27, 2003 Claimants voluntarily withdrew their claims against Jodi T. Rolland without prejudice.

The parties have agreed that the Stipulated Award in this matter may be executed in counterpart copies or that a handwritten, signed Award may be entered. In either case, the parties have agreed to

receive conformed copies of the award while the original(s) remain on file with NASD Dispute Resolution ("NASD").

STIPULATED AWARD

Pursuant to the parties' agreement, and after considering the parties' submissions and representations, but without making any findings of fact or conclusions of law, the undersigned arbitrators order as follows:

- 1.) Claimants' claims against Respondents, Merrill Lynch Pierce Fenner and Smith, Inc., David Kopp, and Edward Schrandt, are hereby dismissed with prejudice;
- 2.) The Panel recommends the expungement of all reference to the above captioned arbitration from Respondents David Kopp's, Jodi Rolland's and Edward Schrandt'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, Respondents Kopp, Rolland and Schrandt must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement;
- 3.) Other than Forum Fees which are specified below, the parties shall each bear their own costs and expenses incurred in this matter; and
- 4.) Any and all relief not specifically addressed herein is denied with prejudice.

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 = \$ 600.00

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 persons at the time of the events giving rise to the dispute. Merrill Lynch Pierce Fenner & Smith Inc. is a member firm.

Member surcharge = \$ 2,800.00

Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$ 5,000.00

Adjournment Fees

Adjournments requested during these proceedings:

May 3-7, 2004, Adjournment requested by Claimants (Adjournment Fee waived by the Panel)	= \$ 1,200.00
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Forum Fees and Assessments

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

Two (2) Pre-hearing sessions with a single arbitrator x \$ 450.00	= \$ 900.00
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Pre-hearing conferences:	02/09/2004	1 session
	03/12/2004	1 session

One (1) Pre-hearing session with Panel x \$ 1,200.00	= \$ 1,200.00
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Pre-hearing conference:	10/28/2003	1 session
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Total Forum Fees	= \$ 2,100.00
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The Panel has assessed \$1,050.00 of the forum fees, jointly and severally, to Claimants.

The Panel has assessed \$1,050.00 of the forum fees, jointly and severally, to Respondents, Merrill Lynch Pierce Fenner & Smith, Inc., David Kopp, Jodi Rolland and Edward Schrandt.

Fee Summary

Claimants, Robert A. Voydat and Rhonda L. Voydat, are jointly and severally liable for:

Initial Filing Fee	= \$ 600.00
<u>Forum Fees</u>	= \$ 1,050.00
Total Fees	= \$ 1,650.00
<u>Less payments</u>	= \$ 1,800.00
Balance Refunded to Claimants	= \$ 150.00

Respondent, Merrill Lynch Pierce Fenner & Smith, Inc., is liable for:

Member Fees	= \$ 8,550.00
Total Fees	= \$ 8,550.00
Less payments	= \$ 8,500.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondents, Merrill Lynch Pierce Fenner & Smith, Inc., David Kopp, Jodi Rolland and Edward Schrandt are jointly and severally liable for:

Forum Fees	= \$ 1,050.00
Total Fees	= \$ 1,050.00
Less payments	= \$ 2,100.00
Balance Refunded to Respondents	= \$ 1,050.00

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

ARBITRATION PANEL

Malcolm T. Cleland- Public Arbitrator, Presiding Chair
Gilbert L. McSwain, Esq. - Public Arbitrator
Raymond N. Mitchell, Jr. - Non-Public Arbitrator

Concurring Arbitrators:

Malcolm T. Cleland
Public Arbitrator, Presiding Chair

Signature Date

Gilbert L. McSwain, Esq.
Public Arbitrator

Signature Date

Raymond N. Mitchell, Jr.
Non-Public Arbitrator

Signature Date

11/8/04
Date of Service (For NASD office use only)

Respondent, Merrill Lynch Pierce Fenner & Smith, Inc., is liable for:

<u>Member Fees</u>	= \$ 8,550.00
<u>Total Fees</u>	= \$ 8,550.00
<u>Less payments</u>	= \$ 8,500.00
<u>Balance Due NASD Dispute Resolution</u>	= \$ 0.00

Respondents, Merrill Lynch Pierce Fenner & Smith, Inc., David Kopp, Jodi Rolland and Edward Schrandt are jointly and severally liable for:

Forum Fees	= \$ 1,050.00
Total Fees	= \$ 1,050.00
Less payments	= \$ 2,100.00
Balance Refunded to Respondents	= \$ 1,050.00

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Malcolm T. Cleland- Public Arbitrator, Presiding Chair
Gilbert L. McSwain, Esq. - Public Arbitrator
Raymond N. Mitchell, Jr. - Non-Public Arbitrator

Concurring Arbitrators:

Hubert F. Cleland

Malcolm T. Cleland
Public Arbitrator, Presiding Chair

10/23/04
Signature Date

Gilbert L. McSwain, Esq.
Public Arbitrator

Signature Date

Raymond N. Mitchell, Jr.
Non-Public Arbitrator

Signature Date

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Public Arbitrator, Presiding Chair

Gilbert L. McSwain, Esq.
Public Arbitrator

Signature Date

10/10/04
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Gilbert L. McSwain, Esq. - Public Arbitrator
Raymond N. Mitchell, Jr. - Non-Public Arbitrator

Concurring Arbitrators:

Malcolm T. Cleland
Public Arbitrator, Presiding Chair

Signature Date

Gilbert L. McSwain, Esq.
Public Arbitrator

Signature Date

Raymond N. Mitchell, Jr.
Non-Public Arbitrator

Signature Date

11/2/04
Date of Service (For NASD office use only)