

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimant

Lisa Landers

Case Number: 03-01728

Names of the Respondents

Merrill Lynch, Pierce, Fenner & Smith, Inc.

Evan Chertkov

David Paul

Hearing Site: Philadelphia, PA

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

REPRESENTATION OF PARTIES

Claimant, Lisa Landers, hereinafter referred to as "Claimant", was represented by Robert J. Levant, Esq., Levant, Martin & Levin, P.C., Philadelphia, Pennsylvania, and by Alan Tauber, Esq., Levant, Martin & Levin, P.C., Philadelphia, Pennsylvania at the hearing on the merits.

Respondents, Merrill Lynch, Pierce, Fenner & Smith, Inc. ("Merrill Lynch"), Evan Chertkov ("Chertkov") and David Paul ("Paul"), hereinafter collectively referred to as "Respondents", were represented by William E. Mahoney, Esq., Stradley Ronon Stevens & Young, LLP, Philadelphia, Pennsylvania.

CASE INFORMATION

Statement of Claim filed on March 10, 2003.

Claimant signed the Uniform Submission Agreement on February 11, 2003.

Statement of Answer filed by Respondents on August 5, 2003.

Respondents did not submit signed Uniform Submission Agreements.

CASE SUMMARY

Claimant asserted the following causes of action, among others: breach of fiduciary duty, violations of section 10(b) of the Securities Exchange Act of 1934, violation of Rule 10b-5 of the Securities Exchange Act of 1934, breach of contract, fraudulent misrepresentation, violation of Pennsylvania's Unfair Trade Practices and Consumer Protection Law, fraud, control person liability, and negligent supervision. The causes of action relate to the purchase and sale of various unspecified common stock and mutual funds.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted the following defenses, among others: failure to state a claim upon which relief may be granted; estoppel; failure to mitigate damages; Respondents did not owe Claimant a fiduciary duty or there was no breach of such duty; Claimant authorized, ratified

approved, accepted, acquiesced in and confirmed all transactions; Claimant failed to exercise due diligence; and any losses sustained by Claimant are attributable to market conditions.

RELIEF REQUESTED

Claimant in her Statement of Claim requested:

Compensatory Damages	\$ 450,000.00
Punitive Damages	\$ 1,350,000.00
Attorneys' Fees	amount unspecified
Other Costs	amount unspecified
Other Monetary Relief	amount unspecified

Respondents in their Statement of Answer requested that the Statement of Claim be dismissed in its entirety, and that the costs of this proceeding, including Respondents' legal fees, be assessed against Claimant.

OTHER ISSUES CONSIDERED AND DECIDED

Respondents Merrill Lynch, Chertkov and Paul did not file with NASD Dispute Resolution, a properly executed submission to arbitration but are required to submit to arbitration pursuant to the Code and, having answered the claim, appeared and testified at the hearing, are bound by the determination of the Arbitration Panel (the "Panel") on all issues submitted.

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

AWARD

After considering the pleadings, the testimony and evidence presented at the hearing, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Claimant's claims are denied in their entirety;
2. Claimant's claims for punitive damages are denied in their entirety;
3. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Evan Chertkov's and Respondent David Paul'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 Chertkov and Paul must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive;
4. The parties shall bear their respective costs, including attorneys' fees, except as Fees are specifically addressed below; and,

5. Any and all relief not specifically addressed herein is denied in its entirety.

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	= \$ 500.00
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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 firms that employed the associated person(s) at the time of the events giving rise to the dispute. Accordingly, Respondent Merrill Lynch is a party.

Member surcharge	= \$ 2,800.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$ 5,000.00
Total Member Fees	= \$ 8,550.00

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:

One (1) Pre-hearing session with Panel @ \$ 1,200.00	= \$ 1,200.00
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Pre-hearing conference:	October 21, 2003	1 session
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Three (3) Hearing sessions @ \$ 1,200.00	= \$ 3,600.00
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Hearing Dates:	March 9, 2004	2 sessions
	March 10, 2004	1 session

Total Forum Fees	= \$ 4,800.00
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1. The Panel has assessed \$ 2,400.00 of the forum fees to Claimant.
2. The Panel has assessed \$ 2,400.00 of the forum fees jointly and severally to Respondents.

FEE SUMMARY

1. Claimant is assessed and shall pay:

Initial Filing Fee	= \$ 500.00
Forum Fees	= \$ 2,400.00
Total Fees	= \$ 2,900.00
Less payments	= \$ 1,700.00
Balance Due NASD Dispute Resolution	= \$ 1,200.00

2. Respondent, Merrill Lynch, is assessed and shall pay the following fees:

Member Fees	= \$ 8,550.00
Total Fees	= \$ 8,550.00
Less payments	= \$ 8,550.00
Balance Due NASD Dispute Resolution	= \$ 00.00

3. Respondents, Merrill Lynch, Chertkov and Paul, are jointly and severally assessed the following fees:

Forum Fees	= \$ 2,400.00
Total Fees	= \$ 2,400.00
Less payments	= \$ 00.00
Balance Due NASD Dispute Resolution	= \$ 2,400.00

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

ARBITRATION PANEL

James Kenneth Fruehling, Esq.	-	Public Arbitrator, Presiding Chairperson
James A. Jennings, Esq.	-	Public Arbitrator, Panelist
Peter D. Shelp, ChFC, CFP	-	Non-Public Arbitrator, Panelist

Concurring Arbitrators' Signatures

James Kenneth Fruehling, Esq.
Public Arbitrator, Presiding Chairperson

3/16/4
Signature Date

James A. Jennings, Esq.
Public Arbitrator, Panelist

Signature Date

Peter D. Shelp, ChFC, CFP
Non-Public Arbitrator, Panelist


Signature Date

March 23, 2004
Date of Service (For NASD Dispute Resolution office use only)

Concurring Arbitrators' Signatures

James Kenneth Fruehling, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date


James A. Jennings, Esq.
Public Arbitrator, Panelist

March 23, 2004
Signature Date

Peter D. Shelp, ChFC, CFP
Non-Public Arbitrator, Panelist

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