

---

**Award**  
**NASD Dispute Resolution**

---

In the Matter of the Arbitration Between:

Names of the Claimants

Mario Bonilla  
La Belle Group, Ltd.

Case Number: 03-01923

Name of the Respondent

Merrill Lynch, Pierce, Fenner &  
Smith, Inc.

Hearing Site: Boca Raton, Florida

---

Nature of the Dispute: Customer vs. Member.

**REPRESENTATION OF PARTIES**

For Mario Bonilla and La Belle Group, Ltd., hereinafter collectively referred to as "Claimants":  
Jeffrey Erez, Esq., Sonn & Erez, Ft. Lauderdale, Florida.

For Merrill Lynch, Pierce, Fenner & Smith, Inc., hereinafter referred to as "Respondent": Brian  
Amery, Esq., Bressler, Amery & Ross, P.C., Miramar, Florida.

**CASE INFORMATION**

Statement of Claim filed on or about: March 18, 2003.

Claimants signed the Uniform Submission Agreement: February 13, 2003.

Statement of Answer filed by Respondent on or about: May 30, 2003.

Respondent signed the Uniform Submission Agreement: April 4, 2003.

Emergency Motion to Strike Statement of Claim With Prejudice or Draw an Adverse Inference  
Against Claimants filed by Respondent on or about: September 10, 2004.

Response to Respondent's Emergency Motion to Strike Statement of Claim With Prejudice or  
Draw an Adverse Inference Against Claimants filed by Claimants on or about: September 20,  
2004.

Motion in Limine filed by Respondent on or about: January 21, 2005.

Response to Motion in Limine filed by Claimants on or about: February 7, 2005.

**CASE SUMMARY**

Claimants asserted the following causes of action: breach of fiduciary duty; negligence;  
negligent supervision; fraud; and, violation of the Florida Securities and Investor Protection Act.  
The causes of action relate to the purchase and sale of shares of Internet Capital Group, Inc. and  
Compaq Corp. stock in Claimants' accounts.

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

### **RELIEF REQUESTED**

Claimants requested compensatory damages in the amount of \$552,777.58, plus punitive damages, interest, costs, attorneys' fees and any other relief deemed just and proper.

Respondent requested that the Panel find in its favor and dismiss the Statement of Claim in its entirety and assess all forum fees and other costs of this proceeding against Claimants.

### **OTHER ISSUES CONSIDERED AND DECIDED**

On or about September 24, 2004, the Panel issued an order denying Respondent's Emergency Motion to Strike the Statement of Claim or Draw an Adverse Inference Against Claimants.

On or about February 14, 2005, the Panel issued an order denying Respondent's Motion in Limine.

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, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

Claimants' claims are denied in their entirety.

Any and all claims for relief not specifically addressed herein, including Claimants' request for punitive damages and claim for damages pursuant to the Florida Securities and Investor Protection Act, 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	= \$ 375.00
--------------------------	-------------

#### **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, the member firm Merrill Lynch, Pierce, Fenner & Smith, Inc. is a party.

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

**Adjournment Fees**

Adjournment granted during these proceedings for which fees were assessed:

April 5-9, 2004, adjournment requested by Respondent = \$ 1,200.00

The Panel has assessed the total adjournment fees of \$1,200.00 to Respondent.

**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 three-day cancellation fees were incurred 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 arbitrators, including a pre-hearing conference with the arbitrators, that lasts four (4) hours or less. Fees associated with these proceedings are:

Five (5) Pre-hearing sessions with a single arbitrator @ \$450.00 = \$2,250.00

Pre-hearing conferences:	March 3, 2004	1 session
	April 30, 2004	1 session
	May 10, 2004	1 session
	June 29, 2004	1 session
	August 30, 2004	1 session

Five (5) Pre-hearing sessions with the Panel @ \$1,200.00 = \$6,000.00

Pre-hearing conferences:	September 17, 2003	1 session
	September 18, 2003	1 session
	March 9, 2004	1 session
	September 10, 2004	1 session
	September 14, 2004	1 session

Six (6) Hearing sessions @ \$1,200.00 = \$7,200.00

Hearing Dates:	February 21, 2005	2 sessions
	February 22, 2005	2 sessions
	February 23, 2005	2 sessions

---

Total Forum Fees = \$15,450.00

The Panel has assessed \$7,725.00 of the forum fees jointly and severally to Claimants.  
The Panel has assessed \$7,725.00 of the forum fees 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:

Initial Filing Fee	= \$ 375.00
<u>Forum Fees</u>	<u>= \$ 7,725.00</u>
Total Fees	= \$ 8,100.00
<u>Less payments</u>	<u>= \$ 1,575.00</u>
Balance Due NASD Dispute Resolution	= \$ 6,525.00

Respondent is solely liable for:

Member Fees	= \$ 7,000.00
Adjournment Fee	= \$ 1,200.00
<u>Forum Fees</u>	<u>= \$ 7,725.00</u>
Total Fees	= \$15,925.00
<u>Less payments</u>	<u>= \$ 7,000.00</u>
Balance Due NASD Dispute Resolution	= \$ 8,925.00

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

**ARBITRATION PANEL**

Lee E. Karofsky, JD	-	Public Arbitrator, Presiding Chairperson
Abe Mintz	-	Public Arbitrator
Sandro L. Ramos	-	Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

/s/

02/24/05

---

Lee E. Karofsky, JD  
Public Arbitrator, Presiding Chairperson

---

Signature Date

/s/

02/24/05

---

Abe Mintz  
Public Arbitrator

---

Signature Date

/s/

02/24/05

---

Sandro L. Ramos  
Non-Public Arbitrator

---

Signature Date

02/24/05

---

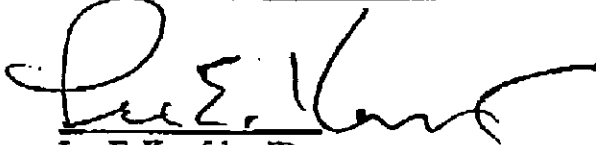
Date of Service (For NASD Dispute Resolution office use only)

FEB. 24. 2005 2:37PM NASD

NO. 967 P. 5

NASD Dispute Resolution  
Arbitration No. 03-01923  
Award Page 5

Concurring Arbitrators' Signatures



Lee E. Karofsky, JD  
Public Arbitrator, Presiding Chairperson

2/24/05  
Signature Date

Abe Mintz  
Public Arbitrator

Signature Date

Sandro L. Ramos  
Non-Public Arbitrator

Signature Date

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



FEB. 24. 2005 2:29PM NASD

NO. 967 P. 6

NASD Dispute Resolution  
Arbitration No. 03-01923  
Award Page 5

Concurring Arbitrators' Signatures

\_\_\_\_\_  
Lee E. Karofsky, JD  
Public Arbitrator, Presiding Chairperson

\_\_\_\_\_  
Signature Date

Abe Mintz  
Abe Mintz  
Public Arbitrator

2/24/05  
Signature Date

\_\_\_\_\_  
Sandro L. Ramos  
Non-Public Arbitrator

\_\_\_\_\_  
Signature Date

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

NASD Dispute Resolution  
Arbitration No. 03-01923  
Award Page 5

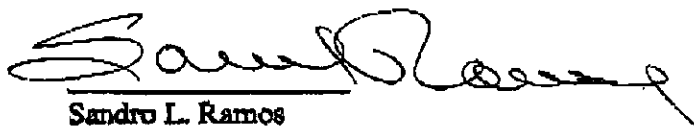
Concurring Arbitrators' Signatures

\_\_\_\_\_  
Lee E. Karofsky, JD  
Public Arbitrator, Presiding Chairperson

\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Abe Mintz  
Public Arbitrator

\_\_\_\_\_  
Signature Date

  
\_\_\_\_\_  
Sandro L. Ramos  
Non-Public Arbitrator

3/24/05  
\_\_\_\_\_  
Signature Date

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