

**STIPULATED AWARD  
NASD Dispute Resolution**

---

In the Matter of the Arbitration Between

Names of Claimants

David Roslonski and Gail Roslonski

vs.

Case Number: 03-02026  
Hearing Site: Detroit, Michigan

Names of Respondents

Merrill Lynch Pierce Fenner & Smith Inc.,  
and Robert W. Hollinger

---

**NATURE OF CASE**

Customers v. Member Firm and Associated Person

**REPRESENTATION OF PARTIES**

David Roslonski and Gail Roslonski ("Claimants") were represented by David M. Black, Esq., Sommers, Schwartz, Silver & Schwartz, Southfield, Michigan.

Merrill Lynch Pierce Fenner & Smith, Inc., ("Merrill Lynch") and Robert W. Hollinger ("Hollinger") hereinafter collectively referred to as "Respondents," were represented by W. Scott Turnbull, Esq., Miller Canfield, Detroit, Michigan.

**CASE INFORMATION**

The Statement of Claim was filed jointly on or about March 21, 2003. The Uniform Submission Agreement of Claimants was signed on or about February 27, 2003.

The Statement of Answer was filed by Respondents, Merrill Lynch Pierce Fenner & Smith, Inc., and Robert W. Hollinger, on or about June 6, 2003.

**CASE SUMMARY**

Claimants asserted the following causes of action: breach of fiduciary duty; breach of contract; and breach of state and federal securities laws. The causes of action related to Claimants' allegations that Respondents recommended and sold them various unspecified securities, which were not suitable for their investment needs and objectives.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted affirmative defenses including the following: the Statement of Claim and all claims therein fail to state a claim upon which relief can be granted; the Statement of Claim and all claims therein are barred by reason of the applicable statute of limitations or other periods of limitations; and the Statement of Claim and all claims therein are barred by reason of the doctrines of waiver, estoppel, laches and release.

### **RELIEF REQUESTED**

Claimants requested an award in the amount of:

Actual/Compensatory Damages	\$ 300,000.00
Punitive/Exemplary Damages	\$ 50, 000.00
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 references to this matter be expunged from the CRD records of Robert Hollinger.

### **OTHER ISSUES CONSIDERED & DECIDED**

Respondents, Merrill Lynch Pierce Fenner & Smith Inc., and Robert W. Hollinger, 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 conference, are bound by the determination of the arbitration panel on all issues submitted.

Claimants have agreed to withdraw and dismiss all claims in the above-entitled case against all Respondents with prejudice and without costs.

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. In either case, the parties have agreed to receive conformed copies of the award while the original(s) remain on file with the NASD Dispute Resolution (the "NASD").

### **AWARD**

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

- 1.) Claimants' claims, having been withdrawn, are dismissed with prejudice;
- 2.) Other than Forum Fees, which are specified below, the parties, shall each bear their own costs and expenses incurred in this matter;
- 3.) The panel recommends the expungement of all reference to the above captioned arbitration from Respondent Robert Hollinger's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 99-09, Respondent Hollinger must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive; and
- 4.) Any relief not specifically enumerated, including punitive damages and attorney fees, is hereby 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 = \$ 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, the member firm is Merrill Lynch Pierce Fenner & Smith, Inc.

Member surcharge = \$1,700.00  
Pre-hearing process fee = \$ 750.00  
Hearing process fee = \$2,750.00

### **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. Fees associated with these proceedings are:

One (1) Pre-hearing session with panel x \$1,125.00	= \$1,125.00
Pre-hearing conference: October 2, 2003 1 session	
<b>Total Forum Fees</b>	<b>= \$1,125.00</b>

The panel has assessed \$ 562.50 of the forum fees jointly and severally to Claimants, David Roslonski and Gail Roslonski.

The panel has assessed \$ 562.50 of the forum fees jointly and severally to Respondents, Merrill Lynch Pierce Fenner & Smith Inc., and Robert W. Hollinger.

### **FEE SUMMARY**

Claimants, David Roslonski and Gail Roslonski, are jointly and severally liable for:

Initial Filing Fee	= \$ 300.00
Forum Fees	= \$ 562.50
<b>Total Fees</b>	<b>= \$ 862.50</b>
<b>Less payments</b>	<b>= \$1,425.00</b>
<b>Balance Refunded to Claimants</b>	<b>= \$ 562.50</b>

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

Member Fees	= \$5,200.00
<b>Total Fees</b>	<b>= \$5,200.00</b>
<b>Less payments</b>	<b>= \$5,200.00</b>
<b>Balance Due NASD Dispute Resolution</b>	<b>= \$ 0.00</b>

Respondents, Merrill Lynch Pierce Fenner & Smith Inc., and Robert W. Hollinger, are jointly and severally liable for:

Forum Fees	= \$ 562.50
<b>Total Fees</b>	<b>= \$ 562.50</b>
<b>Less payments</b>	<b>= \$1,125.00</b>
<b>Balance Refunded to Respondents</b>	<b>= \$ 562.50</b>

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

**ARBITRATION PANEL**

Terrance J. Dorcy - Public Arbitrator, Presiding Chair  
Sandra J. Budnick, Esq. - Public Arbitrator  
Alfred B. Moran - Non-Public Arbitrator

**Concurring Arbitrators:**

/s/ Terrance J. Dorcy  
Terrance J. Dorcy  
Public Arbitrator, Presiding Chair

11/30/2004  
Signature Date

/s/ Sandra J. Budnick, Esq.  
Sandra J. Budnick, Esq.  
Public Arbitrator

12/01/2004  
Signature Date

/s/ Alfred B. Moran  
Alfred B. Moran  
Non-Public Arbitrator

11/30/2004  
Signature Date


12/09/2004  
Date of Service (For NASD office use only)

NASD Dispute Resolution  
Arbitration No. 03-02028  
Stipulated Award Page 5 of 5

**ARBITRATION PANEL**

Terrance J. Dorcy - Public Arbitrator, Presiding Chair  
Sandra J. Budnick, Esq. - Public Arbitrator  
Alfred B. Moran - Non-Public Arbitrator

**Concurring Arbitrators:**

  
Terrance J. Dorcy  
Public Arbitrator, Presiding Chair

November 30, 2004  
Signature Date

Sandra J. Budnick, Esq.  
Public Arbitrator

Signature Date

Alfred B. Moran  
Non-Public Arbitrator

Signature Date

Date of Service (For NASD office use only)

DATE

NASD office use only

NASD Dispute Resolution  
Arbitration No. 03-02028  
Stipulated Award Page 3 of 5

**ARBITRATION PANEL**

Terrance J. Dorcy - Public Arbitrator, Presiding Chair  
Sandra J. Budnick, Esq. - Public Arbitrator  
Alfred B. Moran - Non-Public Arbitrator

**Concurring Arbitrators:**

Terrance J. Dorcy  
Public Arbitrator, Presiding Chair

Signature Date

Sandra J. Budnick, Esq.  
Public Arbitrator

Signature Date

  
Alfred B. Moran  
Non-Public Arbitrator

  
Signature Date

Date of Service (For NASD office use only)

~~Signature~~

~~NASD Office Use Only~~

Balance Refunded to Respondents

= \$ 562.50

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

**ARBITRATION PANEL**

Terrance J. Dorcy - Public Arbitrator, Presiding Chair

Sandra J. Budnick, Esq. - Public Arbitrator

Alfred B. Moran - Non-Public Arbitrator

Concurring Arbitrators:

\_\_\_\_\_  
Terrance J. Dorcy  
Public Arbitrator, Presiding Chair

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

\_\_\_\_\_  
*Sandra J. Budnick, Esq.*  
Sandra J. Budnick, Esq.  
Public Arbitrator

\_\_\_\_\_  
*12-1-04*  
Signature Date

\_\_\_\_\_  
Alfred B. Moran  
Non-Public Arbitrator

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

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