

Stipulated Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

William J. Spruitenburg, Patricia Spruitenburg, and William J. Spruitenburg UGMA, Claimants
v. Merrill Lynch, Pierce, Fenner & Smith Incorporated, Culver E. Stone, John K. Wilson, Detroy
L. Womack, Respondents

Case Number: 03-02092

Hearing Site: San Francisco, California

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

REPRESENTATION OF PARTIES

For Claimants:

James Jay Seltzer, Esq.
The Law Offices of
James Jay Seltzer
Emeryville, California

For Respondents:

Kenneth C. Mennemeier, Esq.
Mennemeier, Glassman &
Stroud LLP
Sacramento, California

CASE INFORMATION

Statement of Claim filed: March 20, 2003

Claimants' Uniform Submission Agreement signed: February 12, 2003

Statement of Answer filed by Respondents: June 6, 2003

Respondent Merrill Lynch Pierce Fenner & Smith Incorporated's Uniform Submission
Agreement signed: April 17, 2003

Respondent Detroy L. Womack's Uniform Submission Agreement signed: May 21, 2003

Respondent Culver E. Stone's Uniform Submission Agreement signed: June 6, 2003

Respondent John K. Wilson's Uniform Submission Agreement signed: June 6, 2003

CASE SUMMARY

Claimants alleged violation of just and equitable principles of trade, unsuitability, omission and misrepresentations of material fact, unauthorized trading, negligent supervision, failure to supervise, violation of Corporations Code Sections 25401 and 25504.1, negligence, breach of contract, breach of the implied covenant of good faith and fair dealing, breach of fiduciary duty, and common law fraud. Claimants' allegations involved mutual funds, including, but not limited to, Munder NetNet, Munder Future Technology, ML Internet Strategies and ML Global Tech Fund, and stock, including, but not limited to, B2B internet, Broadband Holders, Cisco, EMC, McData, Peregrine, Web MD, A.T.& T., A.T.&T. wireless, and Avaya.

Respondents denied the allegations of wrongdoing set forth in the Claimants' Statement of Claim and set forth various affirmative defenses.

RELIEF REQUESTED

Claimants requested damages in the excess of \$380,000.00, interest, punitive damages, treble damages, and costs, including attorney's fees.

Respondents requested dismissal of the Claimants' Statement of Claim in its entirety, that all costs and forum fees be assessed to Claimants, and expungement of any reference to this matter from Respondents Detroy L. Womack's, John K. Wilson's, and Culver E. Stone's CRD records.

OTHER ISSUES CONSIDERED AND DECIDED

On May 5, 2003, Claimants and Claimants' counsel signed a Waiver Agreement expressly waiving any and all rights and benefits under California Civil Code Section 1542 and the California Ethical Standards for Neutral Arbitrators.

On May 17, 2003, Respondents' counsel signed a Waiver Agreement expressly waiving any and all rights and benefits under California Civil Code Section 1542 and the California Ethical Standards for Neutral Arbitrators.

On December 30, 2005, Claimants dismissed Respondents Detroy L. Womack, John K. Wilson, and Culver E. Stone with prejudice.

On January 12, 2006, NASD received the parties' request for a Stipulated Award dismissing this case with prejudice and recommending expungement of all references to this matter from Respondents John K. Wilson's and Culver E. Stone's CRD records. After due consideration,

two of the three arbitrators agreed to approve the requested Stipulated Award. Arbitrator Paul F. Faberman declined to approve the requested Stipulated Award without a telephonic hearing.

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

AWARD

After considering the Stipulation of the parties, the Panel decided in full and final resolution of the issues submitted for determination as follows:

- 1) Claimants' claims are dismissed with prejudice.
- 2) The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent John K. Wilson's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 99-09, Respondent John K. Wilson must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.
- 3) The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Culver E. Stone's registration records maintained by the NASD CRD, with the understanding that pursuant to NASD Notice to Members 99-09, Respondent Culver E. Stone must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.
- 4) All other relief requested and not expressly granted is denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Dispute Resolution received or will collect the non-refundable filing fees for each claim as follows:

Initial claim filing fee	= \$ 500.00
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Member Fees

Member fees are assessed to each member firm that is either a party in the matter or an employer of a respondent associated person at the time of the events that gave rise to the dispute, claim, or controversy. Accordingly, the member firm Merrill Lynch, Pierce, Fenner and Smith Incorporated is a party and the following fees are assessed:

Member Surcharge	= \$ 2,800.00
Pre-Hearing Process Fee	= \$ 750.00
<u>Hearing Process Fee</u>	<u>= \$ 5,000.00</u>
Total Member Fees	= \$ 8,550.00

Adjournment Fees

The following adjournment fees are assessed:

Adjournment of the May 4-7, 2004 hearing requested by the parties	= \$ 1,200.00
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1. The Panel assessed \$600.00 of the adjournment fee jointly and severally to Claimants.
2. The Panel assessed \$600.00 of the adjournment fee jointly and severally to Respondents.

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:

Cancellation of the January 17-20, 2006 hearings due to settlement	= \$ 300.00
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1. The panel assessed \$150.00 of the cancellation fee jointly and severally to Claimants.
2. The panel assessed \$150.00 of the cancellation fee jointly and severally to Respondents.

Forum Fees and Assessments

The Panel assessed a forum fee for each pre-hearing conference or hearing session conducted. A pre-hearing conference and hearing session is any meeting between the parties and the Chair/Panel. The following fees are assessed:

Two Pre-hearing conference sessions with the Panel @ \$1,200.00/session	= \$ 2,400.00
Pre-hearing conferences: July 21, 2003 1 session	
August 26, 2003 1 session	
Total Forum Fees	= \$ 2,400.00

1. The Panel assessed \$ 1,200.00 of the forum fees jointly and severally to Claimants.
2. The Panel assessed \$ 1,200.00 of the forum fees jointly and severally to Respondents.

Fee Summary

1. Claimants are charged with the following fees and costs:

Initial Filing Fee	= \$ 500.00
Adjournment Fee	= \$ 600.00
Three-Day Cancellation Fees	= \$ 150.00
Forum Fees	= \$ 1,200.00
Total Fees	= \$ 2,450.00
Less payments	= \$ (2,300.00)
Balance Due NASD Dispute Resolution	= \$ 150.00

2. Respondent Merrill Lynch, Pierce, Fenner and Smith Incorporated is charged with the following fees and costs:

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

3. Respondents Merrill Lynch, Pierce, Fenner & Smith Incorporated, Culver E. Stone, John K. Wilson, Detroy L. Womack are charged jointly and severally with the following fees and costs:

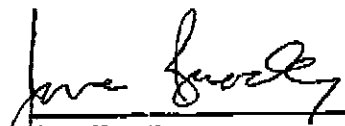
Adjournment Fee	= \$ 600.00
Three-Day Cancellation Fees	= \$ 150.00
Forum Fees	= \$ 1,200.00
Total Fees	= \$ 1,950.00
Less payments	= \$ (600.00)
Balance Due NASD Dispute Resolution	= \$ 1,350.00

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

ARBITRATION PANEL

Jane Bradley	-	Public Arbitrator, Presiding Chair
Paul F. Fuhrman	-	Public Arbitrator
Walter F. Dillaway	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures



Jane Bradley
Chair, Public Arbitrator

3-14-06
Signature Date

Walter F. Dillaway
Non-Public Arbitrator

Signature Date

3/15/06
Date of Service

ARBITRATION PANEL

Jane Bradley	-	Public Arbitrator, Presiding Chair
Paul F. Faberman	-	Public Arbitrator
Walter F. Dillaway	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

Jane Bradley
Chair, Public Arbitrator

Signature Date


Walter F. Dillaway
Non-Public Arbitrator

3/15/06
Signature Date

3/15/06
Date of Service