
Stipulated Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Names of the Claimants

Earthy Murphy
Serleen Murphy

Case Number: 03-02105

Names of the Respondents

Merrill Lynch, Pierce, Fenner & Smith, Inc.
Brad Dunagen Biggs

Hearing Site: Memphis, Tennessee

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

REPRESENTATION OF PARTIES

For Earthy Murphy and Serleen Murphy, hereinafter collectively referred to as "Claimants": Robert Bertsch, Esq., Bertsch & Associates, Port Washington, New York.

For Merrill Lynch, Pierce, Fenner & Smith, Inc. ("Merrill Lynch") and Brad Dunagen Biggs ("Biggs"), hereinafter collectively referred to as "Respondents": Brett D. Sherman, Esq., Senior Counsel, Merrill Lynch Office of General Counsel, New York, New York.

CASE INFORMATION

Statement of Claim filed on or about: March 19, 2003.

Claimants signed the Uniform Submission Agreement: March 10, 2004.

Statement of Answer and Motion for a More Definite Statement of Claim filed by Respondents on or about: June 10, 2003.

Respondent Merrill Lynch signed the Uniform Submission Agreement: July 2, 2003.

Respondent Biggs signed the Uniform Submission Agreement: June 27, 2003.

CASE SUMMARY

Claimants asserted the following causes of action: 1) unsuitability; 2) misrepresentation; 3) violation of federal and state securities laws; 4) negligence and, 5) improper supervision.. The causes of action relate to the purchase and sale of various stocks in Claimants' account, including, but not limited to, Compaq Computer Corp., Dell Computer Inc., Excite Inc., Syquest Technology Inc., Gentocor Inc., Gerner Corp., America Online Inc., Oracle Corp., Cisco Systems Inc., Micron Technology Inc and Biomira Corp.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted various affirmative defenses. Respondents alleged Claimants initiated the trading activity in their accounts and disregarded repeated warnings by Respondents regarding Claimants' investment strategies.

RELIEF REQUESTED

Claimants requested compensatory damages in the amount of \$333,640.13, pre and post- award interest, reimbursement of costs including reasonable attorney's fees and such other and further relief as the Panel deemed just and proper.

Respondents requested that the Statement of Claim be dismissed in its entirety and an award of costs and such other and further relief as the Panel deemed just and proper. In addition, Respondents requested that the Panel enter an order expunging this matter from the NASD Central Registration Depository (the "CRD") record of Respondent Biggs.

OTHER ISSUES CONSIDERED AND DECIDED

The Panel did not rule on Respondents' Motion for a More Definite Statement of Claim and deemed this motion moot.

On or about June 24, 2004, the parties informed NASD Dispute Resolution that they had settled this matter and would be submitting a proposed Stipulated Award with a request for expungement of the NASD CRD record of Respondent Biggs.

On or about September 14, 2004, the parties submitted to NASD Dispute Resolution a proposed Stipulated Award with a request for expungement of the NASD CRD record of Respondent Biggs.

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

AWARD

After considering the pleadings and the proposed Stipulated Award with request for expungement, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. The parties have entered into a confidential settlement agreement.
2. All claims against Respondents are dismissed, with prejudice.
3. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Biggs 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, Respondent Biggs must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.
4. The parties shall bear their own costs and expenses.
5. Any and all claims for relief not specifically addressed herein, including Claimants' request for attorney's fees, 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 = \$300.00

The Panel has waived Claimants' filing fee.

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. Accordingly, Respondent Merrill Lynch is a party to this dispute and was a member of NASD at the time the following fees were assessed:

Member surcharge = \$1,700.00

Pre-hearing process fee = \$ 750.00

Hearing process fee = \$2,750.00

Adjournment Fees

No requests for adjournments were filed in this matter.

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 cancellation fees were assessed in this matter.

Injunctive Relief Fees

No injunctive relief fees were incurred during this proceeding.

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:

One (1) Pre-hearing session with the Panel @ \$1,125.00 = \$1,125.00

Pre-hearing conference: October 16, 2003

Total Forum Fees = \$1,125.00

The Panel has assessed \$562.50 of the forum fees jointly and severally to Claimants.

The Panel has assessed \$562.50 of the forum fees jointly and severally to Respondents.

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 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 during this proceeding.

Fee Summary

Claimants are jointly and severally liable for:

<u>Forum Fees</u>	= \$ 562.50
<u>Total Fees</u>	= \$ 562.50
<u>Less payments</u>	= \$ 0.00
<u>Balance Due NASD Dispute Resolution</u>	= \$ 562.50

Respondent Merrill Lynch is solely liable for:

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

Respondents are jointly and severally liable for:

<u>Forum Fees</u>	= \$ 562.50
<u>Total Fees</u>	= \$ 562.50
<u>Less payments</u>	= \$ 0.00
<u>Balance Due NASD Dispute Resolution</u>	= \$ 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

<i>Clinton W. Shinn, JD</i>	-	<i>Public Arbitrator, Presiding Chairperson</i>
<i>Martin H. Aussenberg, Esq.</i>	-	<i>Public Arbitrator</i>
<i>Hal F. Lewis</i>	-	<i>Non-Public Arbitrator</i>

Concurring Arbitrators' Signatures

/s/
Clinton W. Shinn, JD
Public Arbitrator, Presiding Chairperson

10/25/04
Signature Date

/s/
Martin H. Aussenberg, Esq.
Public Arbitrator

11/10/04
Signature Date

/s/
Hal F. Lewis
Non-Public Arbitrator

10/25/04
Signature Date

11/15/04
Date of Service (For NASD Dispute Resolution office use only)

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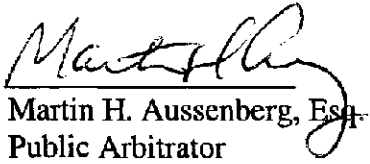
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Martin H. Aussenberg, Esq.	-	Public Arbitrator
Hal F. Lewis	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

Clinton W. Shinn
Clinton W. Shinn, JD
Public Arbitrator, Presiding Chairperson

Oct. 25, 2004
Signature Date


Martin H. Aussenberg, Esq.
Public Arbitrator

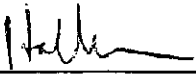
11-10-04
Signature Date

Hal F. Lewis
Non-Public Arbitrator

Signature Date

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

Martin H. Aussenberg, Esq.
Public Arbitrator



Hal F. Lewis
Non-Public Arbitrator

Signature Date

10/25/04

Signature Date

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