

Stipulated Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Mary Hastings (Claimant) v. Merrill Lynch, Pierce, Fenner & Smith Inc. and William McLaughlin, (Respondents)

Case Number: 03-02118

Hearing Site: New York, New York

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

REPRESENTATION OF PARTIES

Claimant Mary Hastings ("Hastings") hereinafter referred to as "Claimant": Gerry Feinberg, Esq., 11 Maritime Avenue, White Plains, New York 10606.

Respondents Merrill Lynch, Pierce, Fenner & Smith Inc. ("Merrill Lynch") and William J. McLaughlin ("McLaughlin") hereinafter referred to as "Respondents": Lauryn J. Hart, Esq., Office of General Counsel, Merrill Lynch, Pierce, Fenner & Smith Inc., New York, NY. Previously represented by: Elyse N. Post, Esq., Office of General Counsel, Merrill Lynch, Pierce, Fenner & Smith Inc., New York, NY.

CASE INFORMATION

Statement of Claim filed on or about: March 14, 2003.

Claimant signed the Uniform Submission Agreement: February 28, 2003.

Joint Statement of Answer filed by Respondents on or about: July 18, 2003.

Merrill Lynch signed the Uniform Submission Agreement: October 24, 2003.

McLaughlin signed the Uniform Submission Agreement: October 22, 2003.

CASE SUMMARY

Claimant's Statement of Claim asserted the following causes of action: (i) breach of fiduciary duty; (ii) negligence; (iii) breach of contract; and (iv) *respondeat superior* liability on the part of Merrill Lynch.

Unless specifically admitted in their Answer, Respondents denied the allegations of wrongdoing set forth in the Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

Pursuant to the Statement of Claim, Claimant requested the following damages:

Compensatory and/or Rescissionary Damages	\$68,862.08
Punitive Damages	N/A
Attorneys' Fees	N/A
Interest	N/A
Other	N/A

Respondents requested that the Statement of Claim be dismissed in its entirety, that the Arbitration Panel issue an order that directs all references of this proceeding and the underlying complaint be expunged from the CRD records of the individual Respondent William J. McLaughlin, that the cost of this proceeding is assessed against the Claimant, and that Respondents be awarded such other and further relief as is deemed just and proper.

OTHER ISSUES CONSIDERED AND DECIDED

Respondent William J. McLaughlin was dismissed with prejudice by agreement of the parties on or about March 17, 2004.

Merrill Lynch and Claimant advise that on or about March 19, 2004, they entered into an agreement to settle this matter on certain terms and conditions set forth in a confidential settlement agreement.

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

AWARD

The parties entered into an agreement to present to the Panel a Stipulated Award. Now, in lieu of a hearing and upon motion of both parties for entry of such an award, the written stipulation thereto, the Panel hereby grants the motion and enters this award granting the following relief:

- 1) Respondent Merrill Lynch is dismissed with prejudice.
- 2) The Panel recommends the expungement of all references to the above-captioned arbitration from respondent William J. McLaughlin's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to Notices to Members 99-09 and 99-54, Respondent William J. McLaughlin must obtain confirmation from a court of competent jurisdiction before the CRD will execute this expungement directive.

- 3) Each party shall bear its own costs and expenses associated with the above-referenced arbitration. All NASD Dispute Resolution fees and costs for this matter have previously been assessed and no change in those assessments is being made hereby.
- 4) Any and all relief not specifically addressed herein is denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Regulation, Inc. has received or will collect the non-refundable filing fees for each claim as follows:

Initial claim filing fee	= \$225.00
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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 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	= \$1,100.00
Pre-Hearing process fee	= \$ 750.00
<u>Hearing process fee</u>	<u>= \$1,700.00</u>
Total Member Fees	= \$3,550.00

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. Forum fees associated with these proceedings are:

One (1) Pre-hearing conference session with the Panel @ \$750.00/session	= \$ 750.00
Pre-hearing conferences: January 14, 2004 1 session	

Total Forum Fees	= \$ 750.00
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The Panel has assessed \$750.00 of the forum fees against Merrill Lynch.

Fee Summary

1. Claimant is solely liable for:

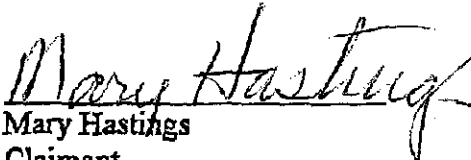
<u>Initial Filing Fee</u>	= \$ 225.00
Total Fees	= \$ 225.00
<u>Less payments</u>	<u>= \$ 975.00</u>
Refund Due	= \$ 750.00

2. Merrill Lynch is solely liable for:

Member Fees	= \$3,550.00
<u>Forum Fees</u>	<u>= \$ 750.00</u>
 Total Fees	 = \$4,300.00
<u>Less payments</u>	<u>= \$3,550.00</u>
Balance Due NASD Dispute Resolution	= \$ 750.00

All balances are due and payable to NASD Dispute Resolution

Parties' Signatures


Mary Hastings
Claimant

5-4-04
Date

Merrill Lynch, Pierce, Fenner & Smith Inc.
Respondent

Date

William J. McLaughlin
Respondent

Date

Member Fees	= \$3,550.00
<u>Forum Fees</u>	<u>= \$ 750.00</u>
 Total Fees	 = \$4,300.00
<u>Less payments</u>	<u>= \$3,550.00</u>
Balance Due NASD Dispute Resolution	= \$ 750.00

All balances are due and payable to NASD Dispute Resolution

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Mary Hastings
Claimant

Date

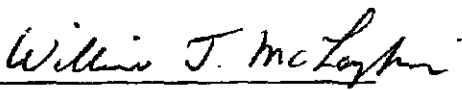
**Merrill Lynch, Pierce,
Fenner & Smith, Incorporated**

By: 

**Robert E. Goldberg
Director & Senior Counsel**

Merrill Lynch, Pierce, Fenner & Smith Inc.
Respondent

5/7/04
Date



William J. McLaughlin
Respondent

4/30/04
Date

ARBITRATION PANEL

Elizabeth Letzler	-	Public Arbitrator, Presiding Chair
Robert Anderson	-	Public Arbitrator
David J. Pine, Esq.	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures



Elizabeth Letzler
Public Arbitrator, Presiding Chair

7/29/04
Date

Robert Anderson
Public Arbitrator

Date

David J. Pine, Esq.
Non-Public Arbitrator

Date

June 8, 2005
Date of Service (For NASD office use only)

ARBITRATION PANEL

Elizabeth Letzler	-	Public Arbitrator, Presiding Chair
Robert Anderson	-	Public Arbitrator
David J. Pine, Esq.	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

Elizabeth Letzler
Public Arbitrator, Presiding Chair

Date



Robert Anderson
Public Arbitrator

5/5/04

Date

David J. Pine, Esq.
Non-Public Arbitrator

Date

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