
Stipulated Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimant

Merrill Lynch, Pierce, Fenner & Smith Inc.

Case Number: 03-02248

Name of the Respondents

Stephen M. Hammers
Planning Advantage

Hearing Site: Nashville, Tennessee

REPRESENTATION OF PARTIES

Claimant, Merrill Lynch, Pierce, Fenner & Smith Inc. ("Merrill Lynch"): Joseph A. Dougherty, Esq., Rubin & Associates, P.C., 10 S. Leopard Rd., Paoli, PA.

Respondents, Stephen M. Hammers ("Hammers") and Planning Advantage, hereinafter collectively referred to as "Respondents": John MacDonald, Esq., Stark & Stark, P.O. Box 5315, Princeton, NJ 08543-5313

CASE INFORMATION

Statement of Claim filed: March 27, 2003.

Claimant Merrill Lynch signed the Uniform Submission Agreement: March 28, 2003.

Statement of Answer filed by Respondents on or about: None.

Respondents signed the Uniform Submission Agreement: April 14, 2003.

CASE SUMMARY

Claimant asserted the following causes of action: Violation by Hammers of his contractual obligations to Merrill Lynch, the wrongful interference with those contractual relations by Planning Advantage, Respondents' misappropriation and conversion of Merrill Lynch's business property, Hammers' breach of fiduciary duty and Planning Advantage's inducement of that breach of fiduciary duty, as well as Respondents' interference with prospective and actual business relations, unfair competition and unjust enrichment.

Unless specifically admitted in its Answer, Respondents denied the allegations made in the Statement of Claim.

RELIEF REQUESTED

Claimant requested:

Compensatory Damages

Unspecified

Other Monetary/Non-Monetary Relief:

Continuation of the Court's Temporary Restraining Order for the term of one (1) year.

AWARD

Upon consideration of the parties' agreement and pursuant to their stipulation, the undersigned Panel enters the following Award:

IT IS HEREBY ORDERED AND DECREED THAT:

1. Respondents Hammers and Planning Advantage are enjoined and restrained, directly or indirectly, and whether alone or in concert with others from:

a) soliciting or otherwise initiating any further contact or communication with any client of Merrill Lynch whom Respondent Hammers served or whose name became known to Respondent Hammers while in the employ of Merrill Lynch for the purpose of advising said clients of his new affiliation or for the purpose of inviting, encouraging or requesting the transfer of any accounts or business patronage from Merrill Lynch (excluding Hammers' family and relatives);

b) soliciting or initiating contact with any client whose records or information Respondents used in violation of paragraph 1 of Respondent Hammers' Agreement. This specifically includes any client whom Respondents may have contacted by mail, phone or otherwise through the use of any client phone numbers or other information obtained by

Respondent Hammers while in the employ of Merrill Lynch (excluding Respondent Hammers' family and relatives); and

c) using, disclosing, or transmitting for any purpose, including solicitation of said clients, the information contained in the records of Merrill Lynch or concerning its customers, including, but not limited to, the names, addresses, and financial information of said clients.

2. Respondents, and anyone acting in active concert or participation with Respondents, including Respondents' counsel and any agent, employee, officer or representative of Respondent Planning Advantage, are further ordered to return to Merrill Lynch's Brentwood, Tennessee office all documents, records and information containing client names, addresses, or other account-related information regarding any and all clients whom Respondent Hammers served or whose names became known to him, whether in original, copied, computerized, handwritten or any other form, and to purge any such information from Respondents' possession, custody, or control, within twenty-four (24) hours of notice to Respondents or their counsel of the terms of this Order, provided, however, that any such information so purged shall be printed prior to purging and returned to Merrill Lynch pursuant to this paragraph.

3. This Order shall remain in full force and effect until April 7, 2004.

4. Except as otherwise specified herein, each party shall bear its own costs and attorney's fees.

5. All other claims and counterclaims, asserted or otherwise existing as of the time of this award, are dismissed with prejudice.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Dispute Resolution, Inc. will retain or collect the non-refundable filing fees for each claim:

Initial claim filing fee	= \$ 500.00
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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(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute. Accordingly, Merrill Lynch is the member firm.

Member surcharge	= \$1,500.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$2,200.00

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. In this matter, the member firm is Merrill Lynch and is assessed the following fee:

Injunctive relief surcharge	= \$2,500.00
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Forum Fees and Assessments

The Panel has the authority to assess forum fees for each hearing session conducted. A hearing session is any meeting between the parties and the arbitrator(s), including a pre-hearing conference with the arbitrator(s), that lasts four (4) hours or less. No hearings were held in this matter.

Fee Summary

1. Claimant, Merrill Lynch, is solely liable for:

Initial Filing Fee	= \$ 500.00
Member Fees	= \$4,450.00
<u>Injunctive Relief Fees</u>	<u>= \$2,500.00</u>
Total Fees	= \$7,450.00
<u>Less payments</u>	<u>= \$6,250.00</u>
Balance Due NASD Dispute Resolution, Inc.	= \$1,200.00

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

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ARBITRATION PANEL

David N. Burn, Esquire	-	Public Arbitrator
Brendan E. Finucane, Sr.	-	Non-Public Arbitrator
John G. Manley, Esquire	-	Public Arbitrator

Concurring Arbitrators' Signature(s)



David N. Burn, Esquire
Public Arbitrator

5/5/03
Signature Date

Brendan E. Finucane, Sr.
Non-Public Arbitrator

Signature Date

John G. Manley, Esquire
Public Arbitrator

Signature Date

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

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Att.
Sally Neal

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