

**Stipulated Award
NASD Dispute Resolution**

In the Matter of Arbitration Between:

Name of Claimant:

Walter K. Merryman

Case No.: 03-02283

Hearing Location: Houston, Texas

v.

Name of Respondent:

Merrill Lynch, Pierce, Fenner & Smith
Inc.

NATURE OF THE CASE

Customer v. Member Firm

REPRESENTATION OF PARTIES

Claimant, Walter K. Merryman, ("Claimant") was represented by Russell Silvergate, Esq., of Dickenson, Rex & Sloan, in Boca Raton, Florida.

Respondent, Merrill Lynch, Pierce, Fenner & Smith, Inc., ("Merrill Lynch") was represented by Harold G. Ognelodh, Esq., of Merrill Lynch, in New York, New York.

CASE INFORMATION

Statement of Claim filed on or about March 31, 2003.

The Submission Agreement was signed by Claimant on or about March 21, 2003.

Statement of Answer filed by Respondent on or about June 18, 2003.

The Submission Agreement was signed by Respondent on or about June 18, 2003.

CASE SUMMARY

Claimant asserted the following causes of action: (i) unsuitable recommendations; (ii) breach of contract; (iii) breach of fiduciary duty; and (iv) claims arising under Texas State Securities Common Law and Statutes. The causes of action relate to the recommendation and purchase of unspecified securities.

Respondent denied all material allegations in the Statement of Claim.

RELIEF REQUESTED

Claimant requested the following damages:

Actual/Compensatory	\$203,000.00
Punitive/Exemplary	Unspecified
Interest	Unspecified
Attorney's Fees	Unspecified
Other Costs	Unspecified
Other Monetary Relief	Unspecified

Respondent requested the following relief: That all allegations be denied and that the customer complaint be expunged from the CRD record of Debra M. Weaver.

OTHER ISSUES CONSIDERED & DECIDED

On May 18, 2004, the parties entered into an agreement to present to the Panel, a Stipulated Award. Claimant and Respondent Merrill Lynch, Pierce, Fenner and Smith Incorporated have entered into a confidential settlement agreement. Claimant stipulates to entry of an award expunging the customer complaint from Debra M. Weaver's registration records maintained by NASD Central Registration Depository ("CRD").

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 NASD Dispute Resolution ("NASD").

STIPULATED AWARD.

After considering the parties' submissions and representations, but without making any findings of fact or conclusions of law, the undersigned arbitrators order as follows:

- 1) The Claimant's claims against Respondent, Merrill Lynch, Pierce, Fenner and Smith, Inc., are dismissed with prejudice;
- 2) The panel recommends the expungement of all reference to the above captioned arbitration from Debra M. Weaver's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 99-09, Debra Weaver must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.
- 3) Each party shall bear its own costs and expenses associated with the referenced arbitration; and
- 4) Any and all relief not specifically addressed herein is denied.

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
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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 is Merrill Lynch, Pierce, Fenner & Smith, Inc.

Member surcharge	= \$ 1700.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$ 2750.00

Forum Fees and Assessments

The Arbitration 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 \$1125.00	= \$1125.00
<u>Pre-hearing conference: October 8, 2003 1 session</u>	
Total Forum Fees	= \$1125.00

The Arbitration Panel has assessed \$562.50 of the forum fees to Walter K. Merryman.

The Arbitration Panel has assessed \$562.50 of the forum fees to Merrill Lynch, Pierce, Fenner & Smith, Inc.

FEE SUMMARY

Claimant, Walter K. Merryman, is liable for:

Initial Filing Fee	= \$ 300.00
<u>Forum Fees</u>	= \$ 562.50
Total Fees	= \$ 862.50
<u>Less payments</u>	= \$ 1425.00
Refund Due to Claimant	= \$ 562.50

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

Member Fees	= \$ 5200.00
<u>Forum Fees</u>	= \$ 562.50
Total Fees	= \$ 5762.50
<u>Less payments</u>	= \$ 5200.00
Balance Due NASD Dispute Resolution	= \$ 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

Sharon Jevort Hemphill, Esq. - Public Arbitrator, Presiding Chair
Danielle L. Hargrove, Esq. - Public Arbitrator
John M. Greer - Non-Public Arbitrator

Concurring Arbitrators:

/s/ Sharon Hemphill
Sharon Jevort Hemphill, Esq.
Public Arbitrator, Presiding Chair

June 8, 2004
Signature Date

/s/ Danielle L. Hargrove
Danielle L. Hargrove, Esq.
Public Arbitrator

June 14, 2004
Signature Date

/s/ John M. Greer
John M. Greer
Non-Public Arbitrator

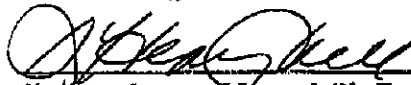
June 22, 2004
Signature Date

June 28, 2004
Date of Service (For NASD office use only)

ARBITRATION PANEL

Sharon Jevert Hemphill, Esq. - Public Arbitrator, Presiding Chair
Danielle L. Hargrove, Esq. - Public Arbitrator
John M. Greer - Non-Public Arbitrator

Concurring Arbitrators:



Sharon Jevert Hemphill, Esq.
Public Arbitrator, Presiding Chair

6-8-04

Signature Date

Danielle L. Hargrove, Esq.
Public Arbitrator

Signature Date

John M. Greer
Non-Public Arbitrator

Signature Date

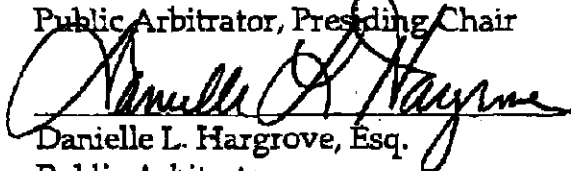
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Danielle L. Hargrove, Esq. - Public Arbitrator
John M. Greer - Non-Public Arbitrator

Concurring Arbitrators:

Sharon Jevett Hemphill, Esq.
Public Arbitrator, Presiding Chair


Danielle L. Hargrove, Esq.
Public Arbitrator

Signature Date

6/14/04
Signature Date

John M. Greer
Non-Public Arbitrator

Signature Date

Date of Service (For NASD office use only)

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Danielle L. Hargrove, Esq. - Public Arbitrator
John M. Greer - Non-Public Arbitrator

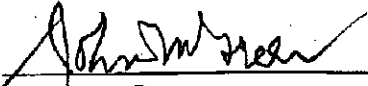
Concurring Arbitrators:

Sharon Jevett Hemphill, Esq.
Public Arbitrator, Presiding Chair

Signature Date

Danielle L. Hargrove, Esq.
Public Arbitrator

Signature Date



John M. Greer
Non-Public Arbitrator

6/22/04

Signature Date

Date of Service (For NASD office use only)