
Stipulated Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Names of the Claimants

Meer J. Leidersnaider
Hana Leidersnaider
David Leidersnaider
Rebeca Leidersnaider

Case Number: 03-02325

Names of the Respondents

Merrill Lynch, Pierce, Fenner & Smith Incorporated
Anthony J. Garcia

Hearing Site: Boca Raton, Florida

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

REPRESENTATION OF PARTIES

For Meer J. Leidersnaider, Hana Leidersnaider, David Leidersnaider and Rebeca Leidersnaider, hereinafter collectively referred to as "Claimants": Robert P. Lithman, Esq., Orshan, Lithman, Seiden, Ramos, Hatton & Huesmann, LLP, Coral Gables, Florida.

For Merrill Lynch, Pierce, Fenner & Smith Incorporated ("Merrill Lynch") and Anthony J. Garcia ("Garcia"), hereinafter collectively referred to as "Respondents": Craig R. Glasser, Esq., Baritz & Colman LLP, Boca Raton, Florida.

CASE INFORMATION

Statement of Claim filed on or about: April 2, 2003.

Claimants signed the Uniform Submission Agreement: April 18, 2003.

Statement of Answer filed by Respondents on or about: July 14, 2003.

Respondent Merrill Lynch signed the Uniform Submission Agreement: June 6, 2003.

Respondent Garcia signed the Uniform Submission Agreement: June 30, 2003.

CASE SUMMARY

Claimants asserted the following causes of action: 1) breach of contract; and, 2) breach of fiduciary duty. The causes of action relate to the purchase of Alpagatas corporate bonds in Claimants' account.

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

RELIEF REQUESTED

Claimants requested compensatory damages in the amount of \$100,000.00, punitive damages, costs and attorney's fees.

Respondents requested that the Statement of Claim be dismissed in its entirety and an award of costs and attorney's fees. In addition, Respondents requested that the Panel enter an order expunging this matter from the NASD Central Registration Depository (the "CRD") record of Respondent Garcia.

OTHER ISSUES CONSIDERED AND DECIDED

On or about October 1, 2004, the parties notified NASD Dispute Resolution that they had settled this matter and that they would be submitting a proposed Stipulated Award with a request for expungement of the NASD CRD record of Respondent Garcia.

The parties resolved the issues presented in their pleadings on October 1, 2004. In connection with the resolution of this matter, Respondents asserted that, because of the nature of the claims, this action should only have been filed against Respondent Merrill Lynch, and not Respondent Garcia. Accordingly, Claimants agreed to cooperate with Respondent Garcia's efforts to have the Action expunged from his NASD CRD records. In connection with the resolution of the claims, the parties agreed that upon the satisfaction of the terms of the resolution, that each of the Claimants and Respondents shall be barred from bringing any action based on or including the claims for which this action has been or could have been brought and that this matter be dismissed, with prejudice as to all Respondents. The only issue presented to the Panel was this Stipulated Award relating to expungement.

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:

Claimants' withdrawal of claims is accepted and Respondents are dismissed from this matter, with prejudice.

The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Garcia's registration records maintained by the NASD CRD, with the understanding that pursuant to NASD Notices to Members 99-09 and 99-54, Respondent Garcia must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

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----- = \$225.00

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	= \$1,100.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$1,700.00

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

March 24-26, 2004, adjournment requested by Respondents = \$750.00 waived by the Panel

June 2-10, 2004, adjournment requested by Claimants = \$750.00

July 12-16, 2004, adjournment requested by Respondents = \$750.00

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 fees assessed in this matter: \$300.00:

The Panel has assessed \$150.00 jointly and severally to Claimants.

The Panel has assessed \$150.00 jointly and severally to Respondents.

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 a single arbitrator @ \$450.00	= \$ 450.00
Pre-hearing conference: February 26, 2004 1 session	

Two (2) Pre-hearing sessions with the Panel @ \$750.00	= \$ 1,500.00
Pre-hearing conferences: November 6, 2003 1 session	
June 2, 2004 1 session	

Total Forum Fees = \$ 1,950.00

The Panel has assessed \$975.00 of the forum fees jointly and severally to Claimants.
The Panel has assessed \$975.00 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:

Initial Filing Fee	= \$ 225.00
Adjournment Fee	= \$ 750.00
Three Day Cancellation Fee	= \$ 150.00
<u>Forum Fees</u>	<u>= \$ 975.00</u>
Total Fees	= \$ 2,100.00
<u>Less payments</u>	<u>= \$ 975.00</u>
Balance Due NASD Dispute Resolution	= \$ 1,125.00

Respondent Merrill Lynch is solely liable for:

<u>Member Fees</u>	<u>= \$ 3,550.00</u>
Total Fees	= \$ 3,550.00
<u>Less payments</u>	<u>= \$ 3,550.00</u>
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondents are jointly and severally liable for:

Forum Fees	= \$ 975.00
Adjournment Fee	= \$ 750.00
<u>Three Day Cancellation Fee</u>	<u>= \$ 150.00</u>
Total Fees	= \$ 1,875.00
<u>Less payments</u>	<u>= \$ 0.00</u>
Balance Due NASD Dispute Resolution	= \$ 1,875.00

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

ARBITRATION PANEL

Burt R. Rose	-	Public Arbitrator, Presiding Chairperson
William J. Callahan, CPA	-	Public Arbitrator

Barry Rabinowitz

Non-Public Arbitrator

Concurring Arbitrators' Signatures

/s/
Burt R. Rose
Public Arbitrator, Presiding Chairperson

11/16/04
Signature Date

/s/
William J. Callahan, CPA
Public Arbitrator

11/18/04
Signature Date

/s/
Barry Rabinowitz
Non-Public Arbitrator

11/24/04
Signature Date

12/01/04
Date of Service (For NASD Dispute Resolution office use only)

Barry Rabinowitz

Non-Public Arbitrator

Concurring Arbitrators' Signatures

Burt R. Rose

Burt R. Rose
Public Arbitrator, Presiding Chairperson

11-16-04

Signature Date

William J. Callahan, CPA
Public Arbitrator

Signature Date

Barry Rabinowitz
Non-Public Arbitrator

Signature Date

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


Barry Rabinowitz

Non-Public Arbitrator

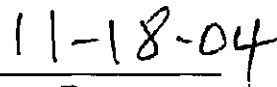
Concurring Arbitrators' Signatures

Burt R. Rose
Public Arbitrator, Presiding Chairperson

Signature Date



William J. Callahan, CPA
Public Arbitrator



Signature Date

Barry Rabinowitz
Non-Public Arbitrator

Signature Date

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

Barry Rabinowitz

Non-Public Arbitrator

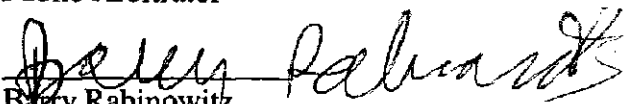
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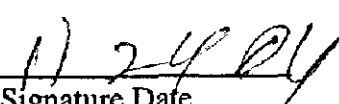
Burt R. Rose
Public Arbitrator, Presiding Chairperson

Signature Date

William J. Callahan, CPA
Public Arbitrator

Signature Date


Barry Rabinowitz
Non-Public Arbitrator


Signature Date

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

RECEIVED
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FLORIDA ARBITRATION