

## **Stipulated Award NASD Dispute Resolution**

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In the Matter of the Arbitration Between:

Name of the Claimant

Sophie Lal

Case Number: 03-02391

Names of the Respondents

Peter J. Russo, Jr.

Merrill Lynch, Pierce, Fenner & Smith, Inc.

Hearing Site: Washington, D.C.

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

### **REPRESENTATION OF PARTIES**

Claimant, Sophie Lal ("Claimant"), was represented by John P. Connolly, Esq., Alexandria, Virginia.

Respondents, Merrill Lynch, Pierce, Fenner & Smith, Inc. ("Merrill Lynch"), and Peter J. Russo, Jr. ("Russo"), hereinafter collectively referred to as "Respondents", were represented by Glenn R. Reichardt, Esq. and Rebecca L. Kline, Esq., Kirkpatrick & Lockhart LLP, Washington, D.C.

### **CASE INFORMATION**

Statement of Claim filed on March 31, 2003.

Claimant signed the Uniform Submission Agreement on March 26, 2003.

Statement of Answer filed by Respondents on June 26, 2003.

A representative of Respondent Merrill Lynch executed the Uniform Submission Agreement on June 26, 2003.

Respondent Russo signed the Uniform Submission Agreement on June 26, 2003.

### **CASE SUMMARY**

Claimant asserted the following causes of action, among others: unsuitable investment recommendations, violation of federal and state securities laws, violations of NASD Rules of Fair Practice, breach of contract, constructive fraud, breach of fiduciary duty, and common law fraud. The causes of action relate to various unspecified securities.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted the following defenses, among others: that Claimant was an aggressive and knowledgeable investor who wanted to pursue a growth strategy in technology stocks; that Claimant chose to leverage her investments in order to exercise her stock option; that

**NASD Dispute Resolution**  
**Arbitration No03-02391**  
**Stipulated Award Page 2**

Claimant followed her accounts and the market closely and her losses were the result of investment decisions that Claimant herself made, which in some cases were contrary to the advice of Respondent Russo, and losses were caused by market forces outside the control of Respondents. Further, Respondents maintained that all activity in Claimant's accounts was properly disclosed and that Claimant ratified all transactions in her accounts

**RELIEF REQUESTED**

Claimant in her Statement of Claim requested:

Compensatory Damages	\$500,000.00
Punitive Damages	\$350,000.00
Interest	amount unspecified
Attorneys' Fees	amount unspecified
Other Costs	amount unspecified

Respondents requested that the Statement of Claim be dismissed in its entirety, that all references to Claimant's claims and this proceeding be ordered expunged from the records of Respondent Russo maintained by the NASD Central Registration Depository ("CRD"), that the costs of this proceeding be assessed against Claimant, and that Claimant be ordered to pay Respondents' legal fees.

**OTHER ISSUES CONSIDERED AND DECIDED**

Prior to the commencement of the hearing, the Claimant withdrew her claims against Respondent Peter J. Russo, Jr. The remaining parties then fully and finally settled all claims by and between them.

The parties hereby submit this Stipulated Award to the Arbitration Panel (the "Panel") for its consideration and request that it be entered.

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.

**AWARD**

Pursuant to the above, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. The parties have reached a settlement of all claims asserted in this matter;
2. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Russo's 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 Russo must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

**NASD Dispute Resolution**  
**Arbitration No03-02391**  
**Stipulated Award Page 3**

3. The parties shall bear their respective costs, including attorneys' fees, except as Fees are specifically addressed below; and
4. Any and all relief not specifically addressed herein is denied in its entirety.

**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 = \$ 375.00

**Member Fees**

Member fees are assessed to each member firm that is a party in these proceedings or to the member firms that employed the associated person(s) at the time of the events giving rise to the dispute. Accordingly Merrill Lynch is a party.

Member surcharge	= \$2,250.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$4,000.00
<b>Total Member Fees</b>	<b>= \$7,000.00</b>

**Forum Fees and Assessments**

The Panel has assessed forum fees for each session conducted. A 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. Fees associated with these proceedings are:

One (1) Pre-hearing session/s with a single arbitrator @ \$1,200.00	= \$1,200.00
Pre-hearing conference: February 13, 2004 1 session	
<b>Total Forum Fees</b>	<b>= \$1,200.00</b>

1. The Panel has assessed \$400.00 of the forum fees to Claimant.
2. The Panel has assessed \$400.00 of the forum fees to Respondent Merrill Lynch.
3. The Panel has assessed \$400.00 of the forum fees to Respondent Russo.

**FEES SUMMARY**

1. Claimant is assessed and shall pay the following fees:
 

Initial Filing Fee	= \$ 375.00
Forum Fees	= \$ 400.00
Retained Hearing Session Deposit	= \$ 800.00
<b>Total Fees</b>	<b>= \$1,575.00</b>

NASD Dispute Resolution  
Arbitration No03-02391  
Stipulated Award Page 4

Less payments \_\_\_\_\_ = \$1,575.00  
Balance Due NASD Dispute Resolution \_\_\_\_\_ = \$ 00.00

2. Respondent Merrill Lynch is assessed and shall pay the following fees:

Member Fees \_\_\_\_\_ = \$7,000.00  
Forum Fees \_\_\_\_\_ = \$ 400.00  
Total Fees \_\_\_\_\_ = \$7,400.00  
Less payments \_\_\_\_\_ = \$2,000.00  
Balance Due NASD Dispute Resolution \_\_\_\_\_ = \$ 400.00

4. Respondent Russo is assessed and shall pay the following fees:

Forum Fees \_\_\_\_\_ = \$ 400.00  
Total Fees \_\_\_\_\_ = \$ 400.00  
Less payments \_\_\_\_\_ = \$ 00.00  
Balance Due NASD Dispute Resolution \_\_\_\_\_ = \$ 400.00

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

ARBITRATION PANEL

Egon Guttman, Esq.	-	Public Arbitrator, Presiding Chairperson
Angela Michelle Washington, Esq.	-	Public Arbitrator, Panelist
Carole Rollinson	-	Non-Public Arbitrator, Panelist

**NASD Dispute Resolution**  
**Arbitration No 03-02391**  
**Stipulated Award Page 3**

**Concurring Arbitrators' Signatures**



**Egon Guttman, Esq**  
**Public Arbitrator, Presiding Chairperson**

02/25/05

**Signature Date**

**Angela Michelle Washington, Esq**  
**Public Arbitrator, Panelist**

**Signature Date**

**Carole Rollinson**  
**Non-Public Arbitrator, Panelist**

**Signature Date**

3/4/05

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

NASD Dispute Resolution  
Arbitration No03-02391  
Stipulated Award Page 5

Concurring Arbitrators' Signatures

\_\_\_\_\_  
Egon Guttman, Esq  
Public Arbitrator, Presiding Chairperson

\_\_\_\_\_  
Signature Date

  
Angela Michelle Washington, Esq  
Public Arbitrator, Panelist

2/25/05  
Signature Date

\_\_\_\_\_  
Carole Rollinson  
Non-Public Arbitrator, Panelist

\_\_\_\_\_  
Signature Date

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NASD Dispute Resolution  
Arbitration No03-02391  
Stipulated Award Page 5


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Egon Guttman, Esq  
Public Arbitrator, Presiding Chairperson

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Signature Date

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Angela Michelle Washington, Esq  
Public Arbitrator, Panelist

\_\_\_\_\_  
Signature Date

  
\_\_\_\_\_  
Carole Rollinson  
Non-Public Arbitrator, Panelist

  
\_\_\_\_\_  
Signature Date

  
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