
Stipulated Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Names of the Claimants

Judi C. Kennedy, Individually and
Lewis A. Kennedy, Individually and
Judi C. Kennedy and Lewis A. Kennedy, JTWROS

Case Number: 03-02729

Names of the Respondents

Merrill Lynch, Pierce, Fenner & Smith Inc.
Marc J. Walters

Hearing Site: Tampa, Florida

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

REPRESENTATION OF PARTIES

For Judi C. Kennedy, Individually ("J. Kennedy"), Lewis A. Kennedy, Individually ("L. Kennedy"), and Judi C. Kennedy and Lewis A. Kennedy, JTWROS ("J and L Kennedy"), hereinafter referred to as "Claimants": Michael Lynch, Esq. and Eduardo Rodriguez, Esq., Hooper & Weiss LLC, Orlando, Florida.

For Merrill Lynch, Pierce, Fenner & Smith Incorporated ("MLPFS") and Marc J. Walters ("Walters"), hereinafter collectively referred to as "Respondents": Bennett Falk, Esq., Bressler, Amery & Ross, P.C., Miramar, Florida.

CASE INFORMATION

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

Claimants signed the Uniform Submission Agreement: March 3, 2003.

Statement of Answer filed by Respondents on or about: July 22, 2003.

Respondents MLPFS and Walters did not file executed Uniform Submission Agreements.

CASE SUMMARY

Claimants alleged the following causes of action: 1) negligence; 2) unsuitability; 3) breach of contract; 4) breach of fiduciary duty; 5) violation of Section 10(b) and Rule 10b-5 of the Securities Exchange Act of 1934; 6) common law fraud; 7) violations of SRO rules; 8) failure to supervise; 9) respondeat superior; 10) violation of New York state law; and 11) violation of Florida state law. The causes of action relate to investments in unspecified securities, including but not limited to, equity and fixed income investments.

Unless specifically admitted in their Statement of Answer, Respondents denied the allegations of wrongdoing set forth in the Statement of Claim and asserted various defenses. Respondents further contended that any losses incurred by Claimants resulted from their own decision to pursue an aggressive investment strategy that sought higher return for their investments.

RELIEF REQUESTED

Claimants requested: 1) compensatory damages in the amount of \$501,764.71; 2) disgorgement of all commissions, fees and other charges paid by Claimants to Respondents; 3) interest; 4) punitive damages; 5) attorneys' fees; 6) costs and expenses of the proceeding; and 7) such other relief as the undersigned arbitrators (the "Panel") deemed just and proper.

Respondents requested: 1) dismissal of the Statement of Claim in its entirety; 2) attorneys' fees; 3) costs; and 4) such other relief as the Panel deemed just and proper.

OTHER ISSUES CONSIDERED AND DECIDED

Respondents MLPFS and Walters did not file with NASD Dispute Resolution ("NASD") properly executed Uniform Submission Agreements but are required to submit to arbitration pursuant to the NASD Code of Arbitration Procedure (the "Code") and having answered the claim, are bound by the determination of the Panel on all issues submitted.

On or about July 18, 2005, the Claimants filed their notification of settlement of the above-captioned arbitration proceeding.

On or about August 23, 2005, the parties submitted a proposed Stipulated Award, wherein the parties requested expungement of the NASD Central Registration Depository ("CRD") records of Respondent Walters.

On or about September 1, 2005, the Panel granted the parties' request for the entry of a Stipulated Award.

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

AWARD

After considering the pleadings and having been apprised of the parties' amicable resolution of this matter and joint request that the Panel enter this Stipulated Award, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. The Statement of Claim is dismissed in its entirety without any finding of fault or liability on the part of Respondents.
2. Claimants determined that Respondent Walters had not engaged in any wrongful conduct and, based upon the agreement and joint request of the parties, the Panel recommends expungement of all references to the above-captioned arbitration proceeding from Respondent Walters' registration records maintained by the NASD

CRD, with the understanding that pursuant to NASD Notice to Members 99-09 and 99-54, Respondent Walters must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

3. Each party shall bear its respective costs, including attorneys' fees.
4. All other requests for relief, which are not addressed specifically in this Stipulated Award, including punitive damages, are denied with prejudice.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD will retain or collect the non-refundable filing fees for each claim:

Initial claim filing fee	= \$ 375.00
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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. Accordingly, Respondent MLPFS is a member firm and a party.

Member surcharge	= \$2,250.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$4,000.00
Total	= \$7,000.00

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

There were no adjournments requested during these proceedings for which fees were assessed.

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:

There were no three-day cancellation fees assessed during these proceedings.

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.

There were no injunctive relief fees assessed during these proceedings.

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:

Two (2) Pre-hearing sessions with Panel @ \$1,200.00 per session	= \$2,400.00
Pre-hearing conferences: November 5, 2003	1 session
January 13, 2005	1 session

Total Forum Fees	= \$2,400.00
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The Panel has assessed \$480.00 of the forum fees to Claimant J. Kennedy

The Panel has assessed \$480.00 of the forum fees to Claimant L. Kennedy.

The Panel has assessed \$480.00 of the forum fees to Claimant J and L Kennedy.

The Panel has assessed \$480.00 of the forum fees to Respondent MLPFS.

The Panel has assessed \$480.00 of the forum fees to Respondent Walters.

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.

There were no administrative costs incurred during these proceedings.

Fee Summary

Claimants are jointly and severally liable for:

<u>Initial Filing Fee</u>	= \$ 375.00
<u>Total Fees</u>	= \$ 375.00
<u>Less payments</u>	= \$ 375.00
<u>Balance Due NASD Dispute Resolution</u>	= \$ 0.00

Claimant J. Kennedy is liable for:

<u>Forum Fees</u>	= \$ 480.00
<u>Total Fees</u>	= \$ 480.00
<u>Less payments</u>	= \$ 400.00
<u>Balance Due NASD Dispute Resolution</u>	= \$ 80.00

Claimant L. Kennedy is liable for:

Forum Fees	= \$ 480.00
Total Fees	= \$ 480.00
Less payments	= \$ 400.00
Balance Due NASD Dispute Resolution	= \$ 80.00

Claimant J. and L. Kennedy is liable for:

Forum Fees	= \$	480.00
Total Fees	= \$	480.00
Less payments	= \$	400.00
Balance Due NASD Dispute Resolution	= \$	80.00

Respondent MLPFS is liable for:

Forum Fees	= \$ 480.00
<u>Member Fees</u>	= \$7,000.00
<u>Total Fees</u>	= \$7,480.00
<u>Less payments</u>	= \$7,000.00
Balance Due NASD Dispute Resolution	= \$ 480.00

Respondent Walters is liable for:

Forum Fees	= \$ 480.00
Total Fees	= \$ 480.00
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 480.00

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

ARBITRATION PANEL

<i>Louis Moroff</i>	-	<i>Public Arbitrator, Presiding Chairperson</i>
<i>Stanley Seidman</i>	-	<i>Public Arbitrator</i>
<i>Lucie L. Sabella</i>	-	<i>Non-Public Arbitrator</i>

Concurring Arbitrators' Signatures

/s/
Louis Moroff
Public Arbitrator, Presiding Chairperson

9/8/05
Signature Date

/s/
Stanley Seidman
Public Arbitrator

9/8/05
Signature Date

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/s/
Lucie L. Sabella
Non-Public Arbitrator

9/7/05
Signature Date

9/9/05
Date of Service (For NASD Dispute Resolution office use only)

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Claimant L. Kennedy is liable for:

<u>Forum Fees</u>	= \$ 480.00
<u>Total Fees</u>	= \$ 480.00
<u>Less payments</u>	= \$ 400.00
<u>Balance Due NASD Dispute Resolution</u>	= \$ 80.00

Claimant J. and L. Kennedy is liable for:

<u>Forum Fees</u>	= \$ 480.00
<u>Total Fees</u>	= \$ 480.00
<u>Less payments</u>	= \$ 400.00
<u>Balance Due NASD Dispute Resolution</u>	= \$ 80.00

Respondent MLPFS is liable for:

<u>Forum Fees</u>	= \$ 480.00
<u>Member Fees</u>	= \$7,000.00
<u>Total Fees</u>	= \$7,480.00
<u>Less payments</u>	= \$7,000.00
<u>Balance Due NASD Dispute Resolution</u>	= \$ 480.00

Respondent Walters is liable for:

<u>Forum Fees</u>	= \$ 480.00
<u>Total Fees</u>	= \$ 480.00
<u>Less payments</u>	= \$ 0.00
<u>Balance Due NASD Dispute Resolution</u>	= \$ 480.00

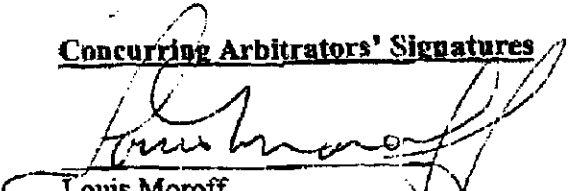
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ARBITRATION PANEL

Louis Moroff
 Stanley Seidman
 Lucie L. Sabella

- Public Arbitrator, Presiding Chairperson
 - Public Arbitrator
 - Non-Public Arbitrator

Concurring Arbitrators' Signatures


 Louis Moroff
 Public Arbitrator, Presiding Chairperson

9/8/05
 Signature Date

Stanley Seidman
 Public Arbitrator

Signature Date

Sep. 7.

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Claimant L. Kennedy is liable for:

<u>Forum Fees</u>	= \$ 480.00
<u>Total Fees</u>	= \$ 480.00
<u>Less payments</u>	= \$ 400.00
<u>Balance Due NASD Dispute Resolution</u>	= \$ 80.00

Claimant J. and L. Kennedy is liable for:

<u>Forum Fees</u>	= \$ 480.00
<u>Total Fees</u>	= \$ 480.00
<u>Less payments</u>	= \$ 400.00
<u>Balance Due NASD Dispute Resolution</u>	= \$ 80.00

Respondent MLPFS is liable for:

<u>Forum Fees</u>	= \$ 480.00
<u>Member Fees</u>	= \$7,000.00
<u>Total Fees</u>	= \$7,480.00
<u>Less payments</u>	= \$7,000.00
<u>Balance Due NASD Dispute Resolution</u>	= \$ 480.00

Respondent Walters is liable for:

<u>Forum Fees</u>	= \$ 480.00
<u>Total Fees</u>	= \$ 480.00
<u>Less payments</u>	= \$ 0.00
<u>Balance Due NASD Dispute Resolution</u>	= \$ 480.00

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

ARBITRATION PANEL

<i>Louis Moroff</i>	-	<i>Public Arbitrator, Presiding Chairperson</i>
<i>Stanley Seidman</i>	-	<i>Public Arbitrator</i>
<i>Lucie L. Sabella</i>	-	<i>Non-Public Arbitrator</i>

Concurring Arbitrators' Signatures

Louis Moroff
 Public Arbitrator, Presiding Chairperson

Signature Date

Stanley Seidman
 Stanley Seidman
 Public Arbitrator

9-8-05
 Signature Date

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Lucie L. Sabella

Lucie L. Sabella
Non-Public Arbitrator

9/07/05
Signature Date

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