

Stipulated Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

J. Charles Casebeer Family Trust, Claimant v. Merrill Lynch, Pierce, Fenner & Smith Inc. and
Arthur T. Doglione, Respondents

Case Number: 03-02739

Hearing Site: Salt Lake City, Utah

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

REPRESENTATION OF PARTIES

For Claimant:

Michael S. Paradise, Esq.
Law Offices of Michael S.
Paradise
New York, New York

For Respondents:

Kent O. Roche, Esq.
Parsons Behle & Latimer
Salt Lake City, Utah

CASE INFORMATION

Statement of Claim filed: April 14, 2003

Claimant's Uniform Submission Agreement signed: April 1, 2003

Joint Statement of Answer and Motion to Dismiss filed by Respondents: July 11, 2003

Respondent Merrill Lynch, Pierce, Fenner & Smith Inc.'s Uniform Submission Agreement signed:
May 1, 2003

Respondent Arthur T. Doglione's Uniform Submission Agreement signed: April 28, 2003

CASE SUMMARY

Claimant alleged margin calls, negligence, failure to supervise, failure to execute, breach of fiduciary duty, misrepresentations, non-disclosures, unauthorized trading, and omission of facts, involving the purchase of the common stock of Atrix Laboratories Inc.

Respondents denied the allegations of wrongdoing set forth in Claimant's Statement of Claim.

RELIEF REQUESTED

Claimant requested \$900,000.00 in compensatory damages, unspecified interest, \$3,000,000.00 in punitive damages, and costs, including attorney's fees.

Respondents requested dismissal of Claimant's Statement of Claim in its entirety, attorney's fees, costs, and expungement of all reference to the above captioned arbitration from the registration record of Arthur T. Doglione maintained by the NASD Central Registration Depository (CRD).

OTHER ISSUES CONSIDERED AND DECIDED

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

AWARD

After considering the pleadings and the parties' request for this Stipulated Award, the Panel decided in full and final resolution of the issues submitted for determination as follows:

1. All claims in this case are dismissed with prejudice.
2. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Arthur T. Doglione's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 99-09, Respondent Arthur T. Doglione must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.
3. The parties shall bear their respective costs and expenses, including attorney's fees.
4. All other relief requested and not expressly granted is denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Dispute Resolution received or will collect the non-refundable filing fees for each claim as follows:

Initial Claim Filing Fee	= \$ 600.00
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Member Fees

Member fees are assessed to each member firm that is either a party in the matter or an employer of a respondent associated person at the time of the events that gave rise to the dispute, claim, or controversy. Accordingly, the member firm Merrill Lynch, Pierce, Fenner & Smith Inc. is a party and the following fees are assessed:

Member Surcharge	= \$ 2,800.00
Pre-Hearing Process Fee	= \$ 750.00
<u>Hearing Process Fee</u>	<u>= \$ 5,000.00</u>
Total Member Fees	= \$ 8,550.00

Adjournment Fees

The following adjournment fees are assessed:

March 16-19, 2004 adjournment requested by Respondents	= Waived
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Forum Fees and Assessments

The Panel assessed a forum fee for each pre-hearing conference conducted. A pre-hearing conference is any meeting between the parties and the Chair or Panel. The following fees are assessed:

1 Pre-hearing conference session with the Panel @ \$1,200.00/session	= \$ 1,200.00
Pre-hearing conference: November 10, 2003 1 session	
Total Forum Fees	= \$ 1,200.00

1. The Panel assessed \$ 600.00 of the forum fees to Claimant J. Charles Casebeer Family Trust.
2. The Panel assessed \$ 600.00 of the forum fees jointly and severally to Respondents Merrill Lynch, Pierce, Fenner & Smith Inc. and Arthur T. Doglione.

FEE SUMMARY

1. Claimant J. Charles Casebeer Family Trust is charged with the following fees and costs:

Initial Filing Fee	= \$ 600.00
<u>Forum Fees</u>	= \$ 600.00
Total Fees	= \$ 1,200.00
<u>Less payments</u>	= \$(1,800.00)
Refund Due Claimant	= \$(600.00)

2. Respondent Merrill Lynch, Pierce, Fenner & Smith Inc. is charged with the following fees and costs:

Member Fees	= \$ 8,550.00
<u>Less payments</u>	= \$(8,550.00)
Balance Due NASD Dispute Resolution	= \$ 0.00

3. Respondents Merrill Lynch, Pierce, Fenner & Smith Inc. and Arthur T. Doglione are charged jointly and severally with the following fees and costs:

Forum Fees	= \$ 600.00
<u>Less payments</u>	= \$(0.00)
Balance Due NASD Dispute Resolution	= \$ 600.00

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

DATED this ____ day of August, 2004.

KEVIN D. SWENSON

Public Arbitrator, Presiding Chairperson

KATHY A. F. DAVIS

Public Arbitrator, Panelist

JONATHAN H. LARSON

Industry Arbitrator, Panelist

APPROVED AS TO FORM:



MICHAEL S. PARADISE

Attorney for Claimants



KENT O. ROCHE

PARSONS BEHLE & LATIMER

Attorneys for Respondents

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ARBITRATION PANEL

Kevin D. Swenson J.D.	-	Public Arbitrator, Presiding Chair
Kathy A. F. Davis	-	Public Arbitrator
Jonathan H. Larson, Esq.	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures


Kevin D. Swenson J.D.
Chair, Public Arbitrator

12/20/04
Signature Date

Kathy A. F. Davis
Public Arbitrator

Signature Date

Jonathan H. Larson, Esq.
Non-Public Arbitrator

Signature Date

1/13/05
Date of Service


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Kathy A. F. Davis	-	Public Arbitrator
Jonathan H. Larson, Esq.	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

Kevin D. Swenson J.D.
Chair, Public Arbitrator

Signature Date



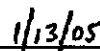
Kathy A. F. Davis
Public Arbitrator



Signature Date

Jonathan H. Larson, Esq.
Non-Public Arbitrator

Signature Date



Date of Service

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Kathy A. F. Davis	-	Public Arbitrator
Jonathan H. Larson, Esq.	-	Non-Public Arbitrator

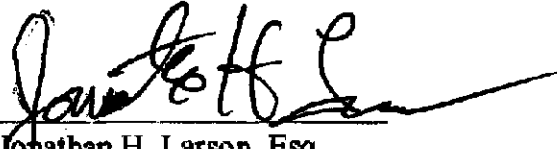
Concurring Arbitrators' Signatures

Kevin D. Swenson J.D.
Chair, Public Arbitrator

Signature Date

Kathy A. F. Davis
Public Arbitrator

Signature Date



Jonathan H. Larson, Esq.
Non-Public Arbitrator

10/19/2004
Signature Date

1/13/05
Date of Service