

Stipulated Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Marilyn J. Gottier and James F. Gottier, Marilyn J. Gottier IRA, and James F. Gottier IRA
(Claimants) v. Merrill Lynch, Pierce, Fenner & Smith, Inc. and Michael Miros (Respondents)

Case Number: 03-02824

Hearing Site: Columbus, Ohio

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

REPRESENTATION OF PARTIES

Claimants Marilyn J. Gottier and James F. Gottier ("The Gottiers"), Marilyn J. Gottier IRA ("M. Gottier IRA"), and James F. Gottier IRA ("J. Gottier IRA") hereinafter collectively referred to as "Claimants": Gary D. Greenwald, Esq., Shayne & Greenwald Co., L.P.A., Columbus, OH.

Respondents Merrill Lynch, Pierce, Fenner & Smith, Inc. ("Merrill Lynch") and Michael Miros ("Miros") hereinafter collectively referred to as "Respondents": Harold G. Ognelodh, Esq., Merrill Lynch, Pierce, Fenner & Smith, Inc., New York, NY.

CASE INFORMATION

Statement of Claim filed on or about: April 11, 2003.

Claimants signed the Uniform Submission Agreement: April 7, 2003.

Joint Statement of Answer filed by Respondents on or about: July 8, 2003.

Respondent Merrill Lynch signed the Uniform Submission Agreement: July 8, 2003.

Respondent Miros signed the Uniform Submission Agreement: November 5, 2003.

CASE SUMMARY

Claimants asserted the following causes of action: securities fraud/unsuitability; common law fraud; breach of fiduciary duty; negligence; and negligent failure to supervise. The causes of action relate to shares of Merrill Lynch Ohio Municipal Bond Fund Class B and Merrill Lynch Fundamental Growth Class B.

Unless specifically admitted in its Answer, Respondents denied the allegations of wrongdoing set forth in the Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

Claimants requested compensatory damages in the amount of \$95,000.00; punitive damages in

the amount of \$450,000.00; and other relief, legal or equitable, that the Panel may deem just and proper.

Respondents requested dismissal of the Statement of Claim in its entirety, an order that expunges all references of this proceeding or any related complaints from the CRD records of Respondent Miros; assessment of all forum fees against Claimants; costs; attorneys' fees; and such other and further relief as the Arbitrators deem just and proper.

OTHER ISSUES CONSIDERED AND DECIDED

On or about July 12, 2004, Claimants notified NASD Dispute Resolution that the parties entered into a confidential settlement agreement. By letter dated July 13, 2004, the parties informed NASD Dispute Resolution that they were requesting a Stipulated Award.

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

The parties entered into an agreement to present to the Panel a Stipulated Award. Now, in lieu of a hearing and upon motion of both parties for an entry of an award, the written stipulation thereto, the Panel grants the motion and enters this award granting the following relief:

1. The claims against Respondents are dismissed with prejudice.
2. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Michael Miros' 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 Miros must obtain confirmation from a court of competent jurisdiction before CRD will execute the expungement directive.
3. Each party shall bear its own costs and expenses associated with the above referenced arbitration.
4. Any and all relief not specifically addressed herein, including punitive damages, 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 = \$ 375.00

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. In this matter, Merrill Lynch, Pierce, Fenner & Smith, Inc., is a party.

Member Surcharge = \$2,250.00

Pre-Hearing Process Fee = \$ 750.00

Hearing Process Fee = \$4,000.00

Total Member Fees = \$7,000.00

Forum Fees and Assessments

The 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 arbitrator, that lasts four (4) hours or less. Forum fees associated with these proceedings are:

One (1) Pre-hearing conference session with the Panel @ \$1,200.00/session = \$1,200.00

Pre-hearing conference: November 24, 2003 1 session

Total Forum Fees = \$1,200.00

1. The Panel has assessed \$600.00 of the forum fees jointly and severally against Claimants.
2. The Panel has assessed \$600.00 of the forum fees jointly and severally against Respondents.

Pursuant to Rule 10332(f)/10205(f) of the Code of Arbitration Procedure, NASD is retaining the total initial amount of the hearing session deposited by the Claimants because this office was notified by the parties that they settled or withdrew this matter within eight business days of the first scheduled hearing session.

Fee Summary

1. Claimants are jointly and severally liable for:

Initial Filing Fee = \$ 375.00

Forum Fees = \$1,200.00

Total Fees = \$1,575.00

Less payments = \$1,575.00

Balance Due Claimants = \$ 0.00

2. Respondent Merrill Lynch is solely liable for:

Member Fees = \$7,000.00

Total Fees	= \$7,000.00
<u>Less payments</u>	<u>= \$7,000.00</u>
Balance Due NASD Dispute Resolution	= \$ 0.00


3. Respondents are jointly and severally liable for:

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

All balances are due and payable to NASD Dispute Resolution

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Parties' Signatures


Marilyn J. Gottier
Claimant

8/25/07
Signature Date


James F. Gottier
Claimant

8/25/07
Signature Date

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

Signature Date

Michael Miros
Respondent

Signature Date

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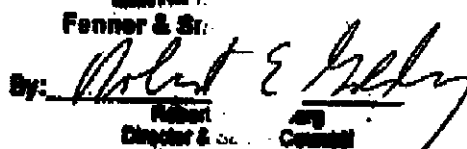
Parties' Signatures

Marilyn J. Gottier
Claimant

Signature Date

James F. Gottier
Claimant

Signature Date

Merrill Lynch, Pierce, Fenner & Smith, Inc.
By: 
Robert E. Kelly
Director & Co. Counsel

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



Signature Date



Michael Miros
Respondent

Signature Date

09/02/2004 16:16 FAX 212 856 4388

NASD REGULATION

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ARBITRATION PANEL

Nelson E. Genshaft, Esq.	-	Public Arbitrator, Presiding Chair
Arnold M. Malech, Esq.	-	Public Arbitrator
Stephen Cartwright	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

I, the undersigned arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument is which is my award.


Nelson E. Genshaft, Esq.
Public Arbitrator, Presiding Chair

9-02-04
Signature Date

Arnold M. Malech, Esq.
Public Arbitrator

Signature Date

Stephen Cartwright
Non-Public Arbitrator

Signature Date

September 13, 2004
Date of Service (For NASD office use only)

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ARBITRATION PANEL

Nelson E. Genshaft, Esq.	-	Public Arbitrator, Presiding Chair
Arnold M. Malech, Esq.	-	Public Arbitrator
Stephen Cartwright	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

I, the undersigned arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument is which is my award.

Nelson E. Genshaft, Esq.
Public Arbitrator, Presiding Chair

Signature Date

Arnold M. Malech, Esq.
Public Arbitrator

Signature Date



Stephen Cartwright
Non-Public Arbitrator

09/10/2004

Signature Date

September 13, 2004

Date of Service (For NASD office use only)