

**Stipulated Award  
NASD Dispute Resolution**

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**In the Matter of the Arbitration Between:**

Name of the Claimant

The Estate of Peggy Pavlos

Case Number: 03-02916

Name of the Respondents

Merrill Lynch, Pierce, Fenner & Smith, Inc.  
Scott B. Linke

Hearing Site: Washington, DC

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

**REPRESENTATION OF PARTIES**

Claimant, the Estate of Peggy Pavlos, hereinafter referred to as "Claimant", was represented by Nicholas J. Guiliano, Esq., Attorney at Law, Philadelphia, Pennsylvania.

Respondents, Merrill Lynch, Pierce, Fenner & Smith, Inc. ("Merrill Lynch") and Scott B. Linke ("Linke"), hereinafter collectively referred to as "Respondents", were represented by Lauryn J. Hart, Esq., Office of General Counsel, Merrill Lynch, Pierce, Fenner & Smith, Inc., New York, New York.

**CASE INFORMATION**

Statement of Claim filed on April 18, 2003.

Maria Murphy signed the Uniform Submission Agreement as Personal Representative of Claimant on April 14, 2003.

Claimant filed an Amended Statement of Claim on or about April 1, 2004.

Joint Statement of Answer filed by Respondents on or about August 28, 2003.

A representative of Respondent Merrill Lynch signed the Uniform Submission Agreement on March 2, 2004.

Respondent Linke signed the Uniform Submission Agreement on February 26, 2004.

**CASE SUMMARY**

Claimant asserted the following causes of action, among others: sale of unsuitable securities, unauthorized trading, excessive activity, breach of fiduciary duty, failure to supervise and, violation of the Maryland Securities Act. The causes of action relate to the purchase of shares in a series of proprietary Merrill Lynch mutual funds.

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

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**RELIEF REQUESTED**

Claimant in the Statement of Claim Claimant requested:

Compensatory Damages	\$222,184.00
Punitive Damages	amount unspecified
Interest	amount unspecified
Attorneys' Fees	amount unspecified
Other Costs	amount unspecified

Respondents requested that the Statement of Claim be dismissed in its entirety, that the Arbitration Panel (the "Panel") recommend the expungement of all references to this proceeding and the underlying complaint from the NASD Central Registration Depository ("CRD") records of Respondent Linke.

**OTHER ISSUES CONSIDERED AND DECIDED**

Respondent Linke was dismissed with prejudice by agreement of the parties on or about May 19, 2004.

Merrill Lynch and Claimant entered into an agreement, on or about May 19, 2004, to settle this matter on certain terms and conditions set forth in a confidential settlement agreement.

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**

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 entry of such an award, the Panel hereby grants the motion and enters this award granting the following relief:

1. Respondent Merrill Lynch is dismissed with prejudice;
2. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Linke'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 Linke 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, 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.

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### 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 = \$ 300.00

#### 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	= \$1,700.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$2,750.00
Total Member Fees	= \$5,200.00

#### 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 with Panel @ \$1,125.00	= \$1,125.00
Pre-hearing conference: February 24, 2004 1 session	
Total Forum Fees	= \$1,125.00

1. The Panel has assessed \$375.00 of the forum fees to Claimant
2. The Panel has assessed \$375.00 of the forum fees to Respondent Merrill Lynch
3. The Panel has assessed \$375.00 of the forum fees to Respondent Linke

### SEE SUMMARY

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

Initial Filing Fee	= \$ 300.00
Forum Fees	= \$ 375.00
Total Fees	= \$ 675.00
Less payments	= \$1,425.00
Refund Due to Claimant	= \$ 750.00

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

Member Fees	= \$5,200.00
Forum Fees	= \$ 375.00
Total Fees	= \$5,575.00
Less payments	= \$5,200.00

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Balance Due NASD Dispute Resolution = \$ 375.00

3. Respondent Linke is assessed and shall pay the following fees:

Forum Fees	= \$ 375.00
Total Fees	= \$ 375.00
Less payments	= \$ 00.00
Balance Due NASD Dispute Resolution	= \$ 375.00

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

ARBITRATION PANEL

Edward M. Statland, Esq.	-	Public Arbitrator, Presiding Chairperson
Andrew K. Dobson	-	Public Arbitrator, Panelist
Brent D. Berkman, CPA	-	Non-Public Arbitrator, Panelist

07/12/2004 10:47 FAX 202 728 906

NASD DISPUTE RESOLUTION

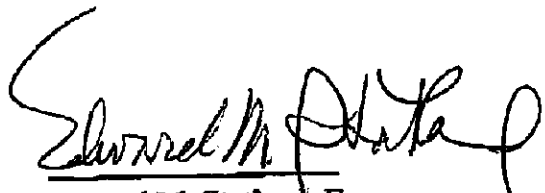
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Concurring Arbitrators' Signatures



Edward M. Statland, Esq.  
Public Arbitrator, Presiding Chairperson

7-12-04  
Signature Date

\_\_\_\_\_  
Andrew K. Dobson  
Public Arbitrator, Panelist

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

\_\_\_\_\_  
Brent D. Berkman, CPA  
Non-Public Arbitrator, Panelist

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

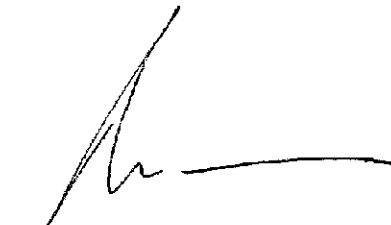
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Date of Service (For NASD Dispute Resolution office use only)

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Concurring Arbitrators' Signatures

Edward M. Statland, Esq.  
Public Arbitrator, Presiding Chairperson

Signature Date



Andrew K. Dobson  
Public Arbitrator, Panelist

22 JUL 2004

Signature Date

Brent D. Berkman, CPA  
Non-Public Arbitrator, Panelist

Signature Date

8/6/04

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Edward M. Statland, Esq.  
Public Arbitrator, Presiding Chairperson

Signature Date

Andrew K. Dobson  
Public Arbitrator, Panelist

Signature Date

Brent D. Berkman  
Brent D. Berkman, CPA  
Non-Public Arbitrator, Panelist

8/6/2004  
Signature Date

8/6/04  
Date of Service (For NASD Dispute Resolution office use only)