

**Award**  
**NASD Dispute Resolution**

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In the Matter of the Arbitration Between:

Glenn R. Hanson and Krista Hanson (Claimants) v. Merrill Lynch, Pierce, Fenner & Smith, Inc. (Respondent)

Case Number: 03-02921

Hearing Site: Boston, Massachusetts

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Nature of the Dispute: Customers v. Member.

**REPRESENTATION OF PARTIES**

Claimants Glenn R. Hanson ("G. Hanson") and Krista Hanson ("K. Hanson") hereinafter collectively referred to as "Claimants": Kevin Kinne, Esq., Cain Hibbard Myers & Cook, P.C., Pittsfield, MA.

Respondent Merrill Lynch, Pierce, Fenner & Smith, Inc. ("Merrill Lynch") hereinafter referred to as "Respondent": Mathew C. Applebaum, Esq., Bingham McCutchen, LLP, Boston, MA.

**CASE INFORMATION**

Statement of Claim filed on or about: April 17, 2003.

Claimants signed the Uniform Submission Agreement: March 31, 2003.

Statement of Answer filed by Respondent on or about: June 17, 2003.

Respondent signed the Uniform Submission Agreement: June 17, 2003.

**CASE SUMMARY**

Claimants asserted the following causes of action: inappropriate investments; misrepresentation; breach of fiduciary duty; failure to supervise; violation of Federal securities laws, NASD Rules of Fair Practice and NYSE Rules; and violation of Consumer Protection Act (Chapter 93A). Claimants' claim involved unspecified securities.

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

**RELIEF REQUESTED**

Claimant requested compensatory damages in the amount of \$1,651,305.04; interest at

the legal rate from March of 2001; punitive damages; and attorneys' fees, costs, and expenses.

Respondent requested that Claimants' claims be dismissed in their entirety and such other and further relief as the Panel may deem appropriate.

### **OTHER ISSUES CONSIDERED AND DECIDED**

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**

After considering the pleadings, and the testimony and evidence presented at the hearing, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. The claims of Claimants are dismissed in their entirety.
2. Any and all relief not specifically addressed herein, including punitive damages, is denied.
3. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Merrill Lynch, Pierce, Fenner & Smith, Inc.'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 Merrill Lynch must obtain confirmation from a court of competent jurisdiction before CRD will execute the expungement directive.

### **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	= \$500.00
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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, Merrill Lynch, Pierce, Fenner & Smith, Inc. is a party.

Member surcharge	= \$2,800.00
Pre-hearing process fee	= \$ 750.00

Hearing process fee = \$5,000.00

**Forum Fees and Assessments**

The Panel has assessed forum fees for each session conducted. A session is any meeting between the parties and the arbitrators, including a pre-hearing conference with the arbitrators, that lasts four (4) hours or less. Fees associated with these proceedings are:

Three (3) Pre-hearing sessions with Panel @ \$1,200.00 = \$ 3,600.00

Pre-hearing conferences:    November 7, 2003    1 session  
   January 28, 2004    1 session  
   February 25, 2004    1 session

Eleven (11) Hearing sessions @ \$1,200.00 = \$13,200.00

Hearing Dates:            July 13, 2004            2 sessions  
   July 14, 2004            2 sessions  
   July 15, 2004            2 sessions  
   July 16, 2004            2 sessions  
   September 30, 2004    2 sessions  
   October 1, 2004        1 session

Total Forum Fees = \$16,800.00

1. The Panel has assessed \$8,400.00 of the forum fees jointly and severally against Claimants.
2. The Panel has assessed \$8,400.00 of the forum fees against Respondent.

**Fee Summary**

1. Claimants are jointly and severally liable for:

Initial Filing Fee	= \$ 500.00
Forum Fees	= \$ 8,400.00
Total Fees	= \$ 8,900.00
Less payments	= \$ 1,800.00
Balance Due NASD Dispute Resolution	= \$ 7,100.00

2. Respondent is solely liable for:

Member Fees	= \$ 8,550.00
Forum Fees	= \$ 8,400.00
Total Fees	= \$16,950.00
Less payments	= \$ 8,550.00
Balance Due NASD Dispute Resolution	= \$ 8,400.00


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

**ARBITRATION PANEL**

Brian J. Dunn, Esq.	-	Public Arbitrator, Presiding Chairperson
Paul J. Carey	-	Public Arbitrator
Carl P. Sherr	-	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.

  
\_\_\_\_\_  
Brian J. Dunn, Esq.  
Public Arbitrator, Presiding Chairperson

  
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Signature Date

\_\_\_\_\_  
Paul J. Carey  
Public Arbitrator

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

\_\_\_\_\_  
Carl P. Sherr  
Non-Public Arbitrator

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Signature Date

October 13, 2004  
Date of Service (For NASD Dispute Resolution use only)

ARBITRATION PANEL

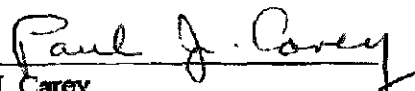
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Brian J. Dunn, Esq.  
Public Arbitrator, Presiding Chairperson

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Signature Date

  
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Paul J. Carey  
Public Arbitrator

Oct 7, 2004  
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Signature Date

\_\_\_\_\_  
Carl P. Sherr  
Non-Public Arbitrator

OCT 12 2004  
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Signature Date

October 13, 2004  
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Public Arbitrator, Presiding Chairperson

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Carl P. Sherr  
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Non-Public Arbitrator

10/12/04  
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