
Stipulated Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Names of the Claimants

Ronald D. Eckhoff and
Laura E. Eckhoff

Case Number: 03-03211

Names of the Respondents

Merrill Lynch, Pierce, Fenner & Smith, Inc.
Kevin B. Adkins

Hearing Site: New Orleans, Louisiana

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

REPRESENTATION OF PARTIES

For Ronald D. Eckhoff and Laura E. Eckhoff, hereinafter collectively referred to as "Claimants":
Sidney W. Jackson, III, Esq., Jackson, Foster & Graham, L.L.C., Mobile, Alabama.

For Respondent Merrill Lynch, Pierce, Fenner & Smith, Inc. ("Merrill"): Carl S. Burkhalter,
Esq., Maynard, Cooper & Gale, P.C., Birmingham, Alabama.

For Respondent Kevin B. Adkins ("Adkins"): Morgan W. Bentley, Esq., Newark, New Jersey.

CASE INFORMATION

Statement of Claim filed on or about: May 1, 2003.

Claimants signed the Uniform Submission Agreement: February 21, 2003.

Statement of Answer filed by Respondents on or about: July 24, 2003.

Respondent Adkins signed the Uniform Submission Agreement: August 12, 2003.

Respondent Merrill signed the Uniform Submission Agreement: August 12, 2003.

CASE SUMMARY

Claimants asserted the following causes of action: fraud; breach of fiduciary duty; violation of the Alabama Securities Act; unsuitability; failure to supervise; negligence; and, trading without authority. The causes of action relate to the purchase and sale of shares of Applied Graphics Technology, 8x8, Inc., Classic Communications, Scient, Inc., Alliance Premier Growth Fund, Alliance High Yield Fund, John Hancock Technology Fund, and Alliance Global Small Cap Fund in Claimants' accounts.

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

RELIEF REQUESTED

Claimants requested compensatory damages in the amount of \$200,000.00, damages for

emotional harm, plus interest, costs, attorney's fees and punitive damages.

Respondents requested that Claimants' Statement of Claim be dismissed, with prejudice, that the Panel award Respondents costs and any other relief deemed just and proper and that this matter be expunged from Respondent Adkins' NASD Central Registration Depository ("CRD") records.

OTHER ISSUES CONSIDERED AND DECIDED

On or about July 16, 2004, Claimants notified NASD Dispute Resolution that this matter had settled. As such, NASD Dispute Resolution closed the file in this matter. Thereafter, on or about September 27, 2004, the parties filed a Joint Motion to Re-Open the Case so that this matter could be expunged from the NASD CRD records of Respondent Adkins. On or about October 7, 2004, the Panel issued an order granting the request to re-open the file and directing the parties to file a Stipulated Award for expungement. On or about November 10, 2004, the parties filed a proposed Stipulated Award for expungement.

The parties have agreed that the Stipulated Award in this matter may be executed in counterpart copies.

AWARD

After considering the pleadings, the Joint Motion to Re-Open the Case, the proposed Stipulated Award and the record in this matter, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

The Panel recommends the expungement of all references to the complaint and/or Statement of Claim in this matter, and the settlement thereof, which are now disclosed on Respondent Adkins' NASD CRD records, with the understanding that pursuant to NASD Notices to Members 99-09 and 99-54, Respondent Adkins must obtain confirmation from a court of competent jurisdiction before the NASD CRD will execute the expungement directive.

FEES

Pursuant to the NASD Code of Arbitration Procedure (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
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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. In this matter, the member firm Merrill Lynch, Pierce, Fenner & Smith, Inc. is a party.

Member surcharge	= \$1,700.00
Pre-hearing process fee	= \$ 750.00

Hearing process fee

= \$2,750.00

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

No requests for adjournments were filed in this matter.

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:

No three-day cancellation fees were incurred in this matter.

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.

No injunctive relief fees were incurred in this matter.

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 the Panel @ \$1,125.00 = \$2,250.00

Pre-hearing conferences:	November 19, 2003	1 session
	June 3, 2004	1 session

Total Forum Fees = \$2,250.00

Pursuant to the agreement of the parties, the Panel has assessed \$1,125.00 of the forum fees jointly and severally to Claimants and \$1,125.00 of the forum fees jointly and severally to Respondents.

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 are not limited to: additional copies of arbitrator awards; copies of audio transcripts; retrieval of documents from archives; interpreters; and, security.

No administrative costs were incurred in this matter.

Fee Summary

Claimants are jointly and severally liable for:

Initial Filing Fee	= \$ 300.00
<u>Forum Fees</u>	= \$ 1,125.00
Total Fees	= \$ 1,425.00
<u>Less payments</u>	= \$ 1,425.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondent Merrill is solely liable for:

<u>Member Fees</u>	= \$ 5,200.00
Total Fees	= \$ 5,200.00
<u>Less payments</u>	= \$ 5,200.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondents are jointly and severally liable for:

<u>Forum Fees</u>	= \$ 1,125.00
Total Fees	= \$ 1,125.00
<u>Less payments</u>	= \$ 1,125.00
Balance Due NASD Dispute Resolution	= \$ 0.00

ARBITRATION PANEL

Kenneth A. Goodwin, Esq.	-	Public Arbitrator, Presiding Chairperson
Bobby M. Harges, JD	-	Public Arbitrator
Charles E. Melancon, Jr.	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

/s/	11/15/04
<u>Kenneth A. Goodwin, Esq.</u> Public Arbitrator, Presiding Chairperson	Signature Date
/s/	11/12/04
<u>Bobby M. Harges, JD</u> Public Arbitrator	Signature Date
/s/	11/15/04
<u>Charles E. Melancon, Jr.</u> Non-Public Arbitrator	Signature Date

11/26/04

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

NASD Dispute Resolution
Arbitration No. 03-03211
Stipulated Award Page 4

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 Kenneth A. Goodwin, Esq.
 Public Arbitrator, Presiding Chairperson

11-15-04
 Signature Date

Bobby M. Harges, JD
 Public Arbitrator

Signature Date

Charles E. Melancon, Jr.
 Non-Public Arbitrator

Signature Date

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Public Arbitrator, Presiding Chairperson

Signature Date

Bobby M. Harges, JD
Public Arbitrator

Signature Date


Charles E. Melancon, Jr.
Non-Public Arbitrator

11-15-04
Signature Date

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Bobby M. Harges, JD	-	Public Arbitrator
Charles E. Melancon, Jr.	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

Kenneth A. Goodwin, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

Bobby M. Harges
Bobby M. Harges, JD
Public Arbitrator

November 12, 2004
Signature Date

Charles E. Melancon, Jr.
Non-Public Arbitrator

Signature Date

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