

STIPULATED AWARD

NASD Dispute Resolution

In the Matter of the Arbitration between

Names of Claimants

Luther H. Soules III and The Luke
Merle Soules Family Foundation

and

Case Number: 03-03240

Hearing Location: Houston, Texas

Names of Respondents

Merrill Lynch, Pierce, Fenner & Smith, Inc.,
Merrill Lynch Asset Management, Merrill Lynch
Investment Managers, LP, and
Tony D. Boykin

NATURE OF DISPUTE

Claimants v. Member Firm, Non-Members and Associated Person

REPRESENTATION OF PARTIES

Luther H. Soules, III and the Luke and Merle Soules Family Foundation ("**Claimants**") were represented by Kendall C. Montgomery, Esq., Hagans, Bobb & Burdine, PC, Houston, Texas; Ricardo G. Cedillo, Esq., Davis, Cedillo & Mendoza, Inc., San Antonio, Texas; Herbert E. Pounds Jr., Esq., San Antonio Texas; and Vincent Marable, III, Esq., Paul Webb, P.C., Wharton, Texas.

Merrill Lynch, Pierce, Fenner & Smith, Inc. ("**Merrill Lynch**") was represented by Charles Gall, Esq., Jenkins & Gilchrist, PC, Dallas, Texas.

Merrill Lynch Investment Managers, LP ("**Merrill Lynch Investment**") and Tony D. Boykin ("**Boykin**") were represented by Kathy Patrick, Esq. and Brian T. Ross, Esq., Gibbs & Bruns, LLP, Houston, Texas.

CASE INFORMATION

The Statement of Claim was filed on or about May 1, 2003. The Submission Agreement of Claimants, Luther H. Soules III and The Luke Merle Soules Family Foundation, was signed on or about May 1, 2003.

The Statement of Answer was filed by Respondent, Merrill Lynch, Pierce, Fenner & Smith, Inc., on or about June 26, 2003. The Submission Agreement of Respondent, Merrill Lynch, Pierce, Fenner & Smith, Inc., was signed on or about June 23, 2003.

The Statement of Answer was filed jointly by Respondents, Merrill Lynch Investment Managers, LP and Tony D. Boykin, on or about June 26, 2003. The Submission Agreement of Respondent, Merrill Lynch Investment Managers, LP, was signed on or about June 27, 2003.

CASE SUMMARY

Claimants asserted the following causes of action: (i) breach of fiduciary duty, (ii) common law fraud, (iii) fraud under the Texas Business and Commerce Code, (iv) breach of contract, (v) negligence, (vi) gross negligence; (vii) negligent misrepresentation; (viii) violations of federal and state securities laws, (ix) failure to supervise. The causes of action related to recommendation and purchase of various unspecified securities.

Unless specifically admitted in its Answer, Respondent, Merrill Lynch, Pierce, Fenner & Smith, Inc., denied the allegations made in the Statement of Claim and asserted various affirmative defenses: Claimants' Statement of Claim failed to state a claim upon which relief can be granted; Claimants failed to mitigate their damages; Claimants' claims are barred, in whole or in part, by the doctrines of laches and estoppel; and Claimants' claims are barred by the applicable statute of limitations.

Unless specifically admitted in their Answer, Respondents, Merrill Lynch Investment Managers, LP and Tony D. Boykin, denied the allegations made in the Statement of Claim and asserted various affirmative defenses: Claimants' Statement of Claim failed to state a claim upon which relief can be granted; Claimants failed to mitigate their damages; Claimants' claims are barred, in whole or in part, by the doctrines of laches and estoppel; and Claimants' claims are barred by the applicable statute of limitations.

RELIEF REQUESTED

Claimants requested the following damages:

Actual/Compensatory Damages	\$10,000,000.00
Attorney's Fees	Unspecified
Punitive/Exemplary Damages	Unspecified
Pre and post judgment interest	Unspecified

Respondent, Merrill Lynch, Pierce, Fenner & Smith, Inc., requested that the claims asserted against it be denied in their entirety and that it be awarded its costs, and attorneys' fees.

Respondents, Merrill Lynch Investment Managers, LP and Tony D. Boykin, requested that the claims asserted against them be denied in their entirety and that they be awarded their costs, attorneys' fees and that this claim be expunged from the CRD record of Respondent, Tony D. Boykin.

OTHER ISSUES CONSIDERED

On or about March 2, 2006, the parties submitted an Unopposed Motion to Reopen the Case for the Limited Purpose of an Expungement.

On or about May 10, 2006, the Panel granted the Unopposed Motion to Reopen the Case.

Pursuant to the settlement between Claimants and Respondents, the Claimants and Respondents have requested that the arbitrators enter a Stipulated Award expunging any reference to this case and claim from the NASD Central Registration Depository ("CRD") record of Tony D. Boykin. This case was filed prior to April 12, 2004, the date of the adoption of NASD Rule 2130 establishing procedures for the expungement of customer dispute information from the CRD system.

The parties have agreed to receive conformed copies of the Stipulated Award while the originals remain on file with NASD Dispute Resolution.

AWARD

After considering the parties' submissions and representations, but without making any findings of fact or conclusions of law, the undersigned arbitrators order as follows:

- 1) Any and all claims against all Respondents are dismissed with prejudice. Claimants and Respondents have entered into a confidential settlement agreement;
- 2) The Panel recommends the expungement of all references to the above-captioned arbitration from Respondent, Tony D. Boykin's, registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 99-09, Respondent, Tony D. Boykin, must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive;
- 3) Other than Forum Fees which are specified below, the parties shall each bear their own costs and expenses incurred in this matter; and
- 4) Any relief not specifically enumerated, including punitive damages and attorneys' fees, is hereby denied with prejudice and all relief not specifically addressed herein is denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Dispute Resolution will retain the non-refundable filing fee for each claim:

Initial claim filing fee = \$ 600.00

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 persons at the time of the events giving rise to the dispute. In this matter, the member firm is Merrill Lynch, Pierce, Fenner & Smith, Inc.

Member surcharge = \$ 3,350.00
Pre-hearing process fee = \$ 750.00
Hearing process fee = \$ 5,500.00

Adjournment Fees

Adjournments granted during these proceedings:

November 9-12, 2004, adjournment requested by Claimants = \$ 1,200.00
(fee waived by the Panel)

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:

November 10-11 and 14-18, 2005, notification of settlement on 11/10/05 = \$ 300.00

Forum Fees and Assessments

The Arbitration 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 arbitrators, that lasts four (4) hours or less. Fees associated with these proceedings are:

Four (4) Pre-hearing sessions with Panel x \$1,200.00 = \$ 4,800.00
Pre-hearing conferences: December 10, 2003 1 session
October 6, 2004 1 session
November 8, 2004 1 session

February 18, 2005 1 session

Five (5) Hearing sessions with Panel x \$1,200.00 = \$ 6,000.00

Hearing sessions: November 7, 2005 2 sessions

November 8, 2005 2 sessions

November 9, 2005 1 session

Total Forum Fees = \$10,800.00

The Arbitration Panel has assessed \$5,400.00 of the forum fees to jointly and severally to Luther H. Soules III and The Luke Merle Soules Family Foundation.

The Arbitration Panel has assessed \$5,400.00 of the forum fees jointly and severally to Merrill Lynch, Pierce, Fenner & Smith, Inc., Merrill Lynch Asset Management, Merrill Lynch Investment Managers, LP, and Tony D. Boykin

Fee Summary

Claimants, Luther H. Soules III and The Luke Merle Soules Family Foundation, are jointly and severally liable for:

Initial Filing Fee = \$ 600.00

Three-Day Cancellation Fee = \$ 150.00

Forum Fees = \$ 5,400.00

Total Fees = \$ 6,150.00

Less payments = \$ 6,150.00

Balance Due NASD Dispute Resolution = \$ 0.00

Respondent, Merrill Lynch, Pierce, Fenner & Smith, Inc., is liable for:

Member Fees = \$ 9,600.00

Total Fees = \$ 9,600.00

Less payments = \$ 9,600.00

Balance Due NASD Dispute Resolution = \$ 0.00

Respondents, Merrill Lynch, Pierce, Fenner & Smith, Inc., Merrill Lynch Asset Management, Merrill Lynch Investment Managers, LP, and Tony D. Boykin are jointly and severally liable for:

Three-Day Cancellation Fee = \$ 150.00

Forum Fees = \$ 5,400.00

Total Fees = \$ 5,550.00

Less payments = \$ 5,550.00

Balance Due NASD Dispute Resolution = \$ 0.00

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

ARBITRATION PANEL

Sharon Jeverth Hemphill, Esq. - Public Arbitrator, Presiding Chair
James Mervin Benson, Jr. Esq. - Public Arbitrator
Robert M. Birenbaum - Non-Public Arbitrator

Concurring Arbitrators' Signatures

/s/ Sharon Jeverth Hemphill, Esq.
Sharon Jeverth Hemphill, Esq.
Public Arbitrator, Presiding Chair

May 22, 2006
Date

/s/ James Mervin Benson, Jr., Esq.
James Mervin Benson, Jr., Esq.
Public Arbitrator

May 23, 2006
Date

/s/ Robert M. Birenbaum
Robert M. Birenbaum
Non-Public Arbitrator


May 23, 2006
Date

May 26, 2006
Date Stipulated Award Served by NASD

ARBITRATION PANEL

Sharon Jevert Hemphill, Esq. - Public Arbitrator, Presiding Chair
James Mervin Benson, Jr. Esq. - Public Arbitrator
Robert M. Birenbaum - Non-Public Arbitrator

Concurring Arbitrators' Signatures



Sharon Jevert Hemphill, Esq.
Public Arbitrator, Presiding Chair

5-22-06
Date

James Mervin Benson, Jr., Esq.
Public Arbitrator

Date

Robert M. Birenbaum
Non-Public Arbitrator

Date

Date Stipulated Award Served by NASD

ARBITRATION PANEL

Sharon Jevett Hemphill, Esq. - Public Arbitrator, Presiding Chair
James Mervin Benson, Jr. Esq. - Public Arbitrator
Robert M. Birenbaum - Non-Public Arbitrator

Concurring Arbitrators' Signatures

Sharon Jevett Hemphill, Esq.
Public Arbitrator, Presiding Chair

Date



James Mervin Benson, Jr., Esq.
Public Arbitrator

Date

Robert M. Birenbaum
Non-Public Arbitrator

Date

Date Stipulated Award Served by NASD

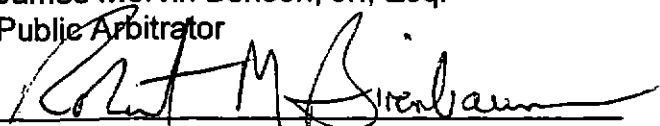
Concurring Arbitrators' Signatures

Sharon Jevert Hemphill, Esq.
Public Arbitrator, Presiding Chair

Date

James Mervin Benson, Jr., Esq.
Public Arbitrator

Date



Robert M. Birenbaum
Non-Public Arbitrator

5/23/2006
Date

Date Stipulated Award Served by NASD