
Stipulated Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Names of the Claimants

Case Number: 03-03257

Elliot and Joy Denniberg
Elliot Denniberg
Joy Denniberg
Joy Denniberg, as custodian for Alan Denniberg
Denniberg Advertising Inc.
Denniberg Advertising Inc. Defined Benefit Plan

Names of the Respondents

Hearing Site: Boca Raton, Florida

Merrill Lynch, Pierce, Fenner & Smith Inc.
Donald Robbins

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

REPRESENTATION OF PARTIES

For Elliot and Joy Denniberg, Elliot Denniberg, Joy Denniberg, Joy Denniberg, as custodian for Alan Denniberg, Denniberg Advertising Inc. and Denniberg Advertising Inc. Defined Benefit Plan, hereinafter referred to as "Claimants": Stephen Murakami, Esq., Hooper & Weiss, L.L.C., Jericho, New York.

For Respondents Merrill Lynch, Pierce, Fenner & Smith Inc. ("Merrill Lynch") and Donald Robbins ("Robbins"), hereinafter collectively referred to as "Respondents": Richard L. Martens, Esq. and Charles L. Pickett, Esq., Boose Casey Ciklin Lubitz Martens McBane & O'Connell, West Palm Beach, Florida.

CASE INFORMATION

Statement of Claim filed on or about: May 23, 2003.

Claimants signed the Uniform Submission Agreement: April 25, 2003.

Statement of Answer filed by Respondents on or about: July 21, 2003.

Respondent Merrill Lynch signed the Uniform Submission Agreement: June 24, 2003.

Respondent Robbins signed the Uniform Submission Agreement: June 25, 2003.

Amended Statement of Claim filed by Claimants on or about: June 30, 2003.

Statement of Answer to Amended Statement of Claim filed by Respondents on or about: July 25, 2003.

Second Amended Statement of Claim filed by Claimants on or about: August 20, 2003.

Statement of Answer to Second Amended Statement of Claim filed by Respondent Merrill Lynch on or about: September 2, 2003.

CASE SUMMARY

Claimants asserted the following causes of action: 1) unauthorized trading; 2) violation of NASD suitability rule; 3) common law fraud; 4) breach of fiduciary duty; 5) common law negligence; 6) violation of Florida Statutes, Chapters 517.301 and 517.211; 7) breach of contract; and, 8) failure to supervise. The causes of action relate to the purchase and sale of various stocks and mutual funds in Claimants' accounts, including, but not limited to, Janus Mercury Fund, Putnam International Growth Fund and Robert Stevens Emerging Growth Fund.

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

RELIEF REQUESTED

Claimants requested compensatory damages in the amount of \$250,000.00, interest, punitive damages, attorney's fees, costs and expenses of this proceeding and such other and further relief as the Panel deemed just and proper.

Respondents requested an entry of an award in its favor, including costs and any additional or other relief the Panel deemed just and proper. In addition, Respondents requested that the Panel enter an order expunging this matter from the NASD Central Registration Depository (the "CRD") record of Respondent Robbins.

OTHER ISSUES CONSIDERED AND DECIDED

On or about May 10, 2004, the parties notified NASD Dispute Resolution that they had settled this matter and that they would be submitting a proposed Stipulated Award with a request for expungement of the NASD CRD record of Respondent Robbins.

This matter involved disputed claims and was settled by the parties prior to submission of any evidence by any party and prior to the final arbitration hearing. Claimants filed a Second Amended Statement of Claim, whereby Respondent Robbins was dismissed, with prejudice, from this action. Accordingly, the parties request that all references to this arbitration proceeding be expunged from the NASD CRD record of Respondent Robbins.

On or about July 15, 2004, the parties submitted to NASD Dispute Resolution a Stipulation to Dismiss and Expunge the NASD CRD record of Respondent Robbins and a proposed Stipulated Award. In addition, the parties stipulated and agreed that this matter be dismissed, with prejudice, and that Claimants and Respondent Merrill Lynch, as to each other, shall bear their respective costs and attorney's fees. The parties further stipulated that said dismissal shall be a bar to the bringing of any action based on or including the claims, third party claims or counterclaims for which these actions have been or could have been brought against Respondent by the Claimant or against the Claimants by the Respondent Merrill Lynch.

The parties have agreed that the Stipulated Award in this matter may be entered in counterpart copies or that a signed handwritten Stipulated Award may be entered.

AWARD

After considering the pleadings, the Stipulation to Dismiss and Expunge and the proposed Stipulated Award, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

Claimants' withdrawal of the claims against Respondent Merrill Lynch, with prejudice, is accepted and said Respondent is dismissed from this matter.

The Panel recommends the expungement of all references to the above captioned arbitration from Donald Robbin's registration records maintained by the NASD CRD, with the understanding that pursuant to NASD Notices to Members 99-09 and 99-54, Donald Robbins must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

Any and all claims for relief not specifically addressed herein, including Claimants' requests for attorney's fees and punitive damages and any request for relief pursuant to Florida Statutes, Chapters 517.301 and 517.211, are denied.

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. Accordingly, Respondent Merrill Lynch is a party to this dispute and was a member of NASD at the time the following fees were assessed:

Member surcharge	= \$1,700.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$2,750.00

Adjournment Fees

No requests for adjournments were filed in this matter.

Injunctive Relief Fees

No injunctive relief fees were incurred during this proceeding.

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:

One (1) Pre-hearing session with the Panel @ \$1,125.00	= \$1,125.00
Pre-hearing conference: November 6, 2003 1 session	
Total Forum Fees	= \$1,125.00

The Panel has assessed \$562.50 of the forum fees jointly and severally to Claimants.
The Panel has assessed \$562.50 of the forum fees to Respondent.

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 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 during this proceeding.

Fee Summary

Claimants are jointly and severally liable for:

Initial Filing Fee	= \$ 300.00
Forum Fees	= \$ 562.50
Retained hearing session deposit	= \$ 562.50
Total Fees	= \$ 1,425.00
Less payments	= \$ 1,425.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondent Merrill Lynch is solely liable for:

Member Fees	= \$ 5,200.00
Forum Fees	= \$ 562.50
Total Fees	= \$ 5,762.50
Less payments	= \$ 5,200.00
Balance Due NASD Dispute Resolution	= \$ 562.50

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

ARBITRATION PANEL

Bernard H. Shulman, Esq.	-	Public Arbitrator, Presiding Chairperson
Iris Marilyn Bass, Esq.	-	Public Arbitrator
Richard D. Hanson	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

/s/
Bernard H. Shulman, Esq.
Public Arbitrator, Presiding Chairperson

07/21/04
Signature Date

/s/
Iris Marilyn Bass, Esq.
Public Arbitrator

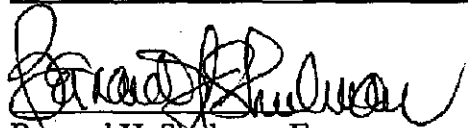
07/23/04
Signature Date

/s/
Richard D. Hanson
Non-Public Arbitrator

07/20/04
Signature Date

07/28/04
Date of Service (For NASD Dispute Resolution office use only)

Concurring Arbitrators' Signatures



Bernard H. Shulman, Esq.
Public Arbitrator, Presiding Chairperson

July 21, 2004

Signature Date

Iris Marilyn Bass, Esq.
Public Arbitrator

Signature Date

Richard D. Hanson
Non-Public Arbitrator

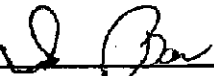
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Public Arbitrator, Presiding Chairperson

Signature Date



Iris Marilyn Bass, Esq.
Public Arbitrator



Signature Date

Richard D. Hanson
Non-Public Arbitrator

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NASD Dispute Resolution

Arbitration No. 03-03257

Stipulated Award Page 5

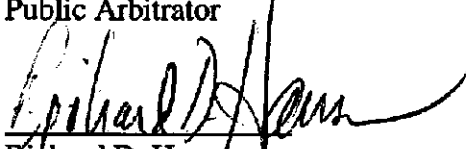
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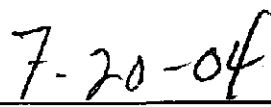
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Non-Public Arbitrator



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