

**Stipulated Award
NASD Dispute Resolution**

In the Matter of the Arbitration Between:

Names of the Claimants

Lawrence S. and Susanne W. Close

Case Number: 03-03501

Names of the Respondents

Merrill Lynch, Pierce, Fenner & Smith, Inc.
Chris A. Barnish

Hearing Site: Philadelphia, PA

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

REPRESENTATION OF PARTIES

Claimants, Lawrence S. and Susanne W. Close ("Claimants"), were represented by Nicholas J. Guiliano, Esq., Philadelphia, Pennsylvania.

Respondents, Merrill Lynch, Pierce, Fenner & Smith, Inc. ("Merrill Lynch") and Chris A. Barnish ("Barnish"), hereinafter collectively referred to as "Respondents", were represented by Brett Sherman, Esq., Merrill Lynch, Pierce, Fenner & Smith, Inc., New York, New York.

CASE INFORMATION

Statement of Claim filed on May 13, 2003.

Claimants signed the Uniform Submission Agreement on April 22, 2003.

Statement of Answer filed by Respondents on July 29, 2003.

A representative of Respondent Merrill Lynch signed the Uniform Submission Agreement on July 25, 2003.

Respondent Barnish signed the Uniform Submission Agreement on July 25, 2003.

CASE SUMMARY

Claimants asserted the following causes of action: breach of fiduciary duty, violation of state and federal securities laws and rules, misrepresentation/omission of facts, failure to supervise, and sale of unsuitable securities. The causes of action relate to the purchase and sale of various internet, technology and telecommunications securities.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted the following defenses among others: failure to state a claim upon which relief may be granted; contributory negligence; failure to mitigate; and, ratification.

RELIEF REQUESTED

Claimants requested \$76,180.00 in compensatory damages and punitive damages, interest, attorney's fees and costs in unspecified amounts.

Respondents requested that the Statement of Claim be dismissed; that the Arbitration Panel (the "Panel") issue an order directing all reference to this proceeding be expunged from the NASD Central Registration Depository (the "CRD") records of Barnish; that costs be assessed against Claimants; and that Respondents be awarded such other and further relief as is deemed just and proper.

OTHER ISSUES CONSIDERED AND DECIDED

Prior to the hearing, the parties fully and finally settled all claims by and between them. Therefore, the parties submit this Stipulated Award to the Panel for its consideration and request that it be entered.

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

AWARD

Pursuant to the above, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. The parties have amicably resolved their differences and have requested this Stipulated Award;
2. The Panel recommends the expungement of all reference to the above-captioned arbitration from Respondent Barnish's registration records maintained by the CRD, with the understanding that pursuant to NASD Notices to Members 99-09 and 99-54, Respondent Barnish 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, including punitive damages, is denied in its entirety.

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 = \$225.00

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 person at the time of the events giving rise to the dispute. Accordingly, Merrill Lynch is a party.

Member surcharge	= \$1,100.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$1,700.00

Forum Fees

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 @ \$750.00	= \$750.00
Pre-hearing conference: December 10, 2003 1 session	

Total Forum Fees	= \$750.00
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1. The Panel has assessed \$375.00 of the forum fees to Claimants jointly and severally.
2. The Panel has assessed \$375.00 of the forum fees jointly and severally to Respondents.

Fee Summary

1. Claimants are jointly and severally assessed and shall pay:

Initial Filing Fee	= \$ 225.00
Forum Fees	= \$ 375.00
Retained Hearing Session Deposit	= \$ 375.00
Total Fees	= \$ 975.00
Less payments	= \$ 975.00
Balance Due NASD Dispute Resolution	= \$ 0.00

2. Respondent Merrill Lynch is assessed and shall pay:

Member Fees	= \$3,550.00
Total Fees	= \$3,550.00
Less payments	= \$3,550.00
Balance Due NASD Dispute Resolution	= \$ 0.00

3. Respondents Merrill Lynch and Barnish are jointly and severally assessed and shall pay:

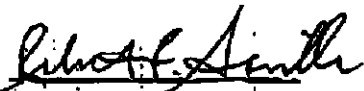
Forum Fees	= \$ 375.00
Total Fees	= \$ 375.00
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 375.00

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

ARBITRATION PANEL

Robert F. Sanville	-	Public Arbitrator, Presiding Chairperson
Richard M. Rosenbleeth, Esq.	-	Public Arbitrator, Panelist
Frederick J. Arnold	-	Non-Public Arbitrator, Panelist

Concurring Arbitrators' Signatures



Robert F. Sanville
Public Arbitrator, Presiding Chairperson

2/7/05
Signature Date

Richard M. Rosenbleeth, Esq.
Public Arbitrator, Panelist

Signature Date

Frederick J. Arnold
Non-Public Arbitrator, Panelist

Signature Date

2/11/05
Date of Service (For NASD Dispute Resolution office use only)

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Frederick J. Arnold	-	Non-Public Arbitrator, Panelist

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Public Arbitrator, Presiding Chairperson

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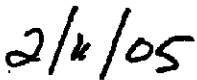

Richard M. Rosenbleeth, Esq.
Public Arbitrator, Panelist



Signature Date

Frederick J. Arnold
Non-Public Arbitrator, Panelist

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