

AWARD
NASD Dispute Resolution

In the Matter of the Arbitration Between

Names of Claimants

Teresa Perches Alexander and Letede, S.A. de C.V.

and

Case Number: 03-03586
Hearing Site: Houston, Texas

Names of Respondents

Merrill Lynch Pierce Fenner & Smith, Inc.,
John K. Hawley, and
Herbert Paul

NATURE OF DISPUTE

Customers v. Member Firm and Associated Persons

REPRESENTATION OF PARTIES

Teresa Perches Alexander and Letede, S.A. de C.V. ("**Claimants**") were represented by Herbert Ehrlich, Esq., Scherr, Legate & Ehrlich, PLLC, El Paso, Texas.

Merrill Lynch Pierce Fenner & Smith, Inc. ("**Merrill Lynch**") and John K. Hawley ("**Hawley**") were represented by Joseph L. Hood, Esq., Scott, Hulse, Marshall, Feuille, Finger & Thurmond, El Paso, Texas.

Herbert Paul ("**Paul**") was represented by Brian T. Ross, Esq., Gibbs & Bruns, LLP, Houston, Texas.

CASE INFORMATION

The Statement of Claim was filed on or about May 16, 2003. The Submission Agreement of Claimants, Teresa Perches Alexander and Letede, S.A. de C.V., was signed on or about May 16, 2003.

The Joint Statement of Answer was filed by Respondents, Merrill Lynch Pierce Fenner & Smith, Inc. and John K. Hawley, on or about August 8, 2003.

The Statement of Answer was filed by Respondent, Herbert Paul, on or about August 8, 2003. The Submission Agreement of Respondent, Herbert Paul, was signed on or about August 8, 2003.

CASE SUMMARY

Claimants asserted the following causes of action: breach of fiduciary duty, unauthorized trading, churning, suitability, failure to supervise, breach of contract and margin calls. The causes of action relate to the recommendation and purchase of unspecified securities. Claimants alleged that Respondents never adjusted the investment to conserve her assets nor did they activate stop loss orders on the Claimants' account as they agreed.

Unless specifically admitted in their Answer, Respondents, Merrill Lynch and Hawley, denied the allegations made in the Statement of Claim and asserted affirmative defenses including the following: Claimants have failed to state a claim upon which relief can be granted; Claimants failed to exercise the degree of care over their affairs as such, caused or contributed to any alleged damages asserted against Respondent; and Claimants' claims are barred by the doctrines of laches and or ratification.

Unless specifically admitted in his Answer, Respondent, Paul, denied the allegations made in the Statement of Claim and asserted affirmative defenses including the following: Claimants have failed to state a claim upon which relief can be granted; and specifically denies that he is obligated to pay any of the Claimants' attorneys' fees, reasonable or otherwise.

RELIEF REQUESTED

Claimants requested an award in the amount of:

Actual/Compensatory Damages	\$306,851.00
Punitive/Exemplary Damages	Unspecified
Other Costs	Unspecified
Attorneys' Fees	Unspecified
Other Monetary Relief	Unspecified

Respondents, Merrill Lynch and Hawley, requested that the claims asserted against them be denied in their entirety and that they be awarded their costs, attorneys' fees and the expungement of Hawley's CRD record.

Respondent, Paul, requested that the claims asserted against him be denied in their entirety and that he be awarded his costs and attorneys' fees.

OTHER ISSUES CONSIDERED & DECIDED

Respondents, Merrill Lynch Pierce Fenner & Smith, Inc. and John K. Hawley, did not file with the NASD Dispute Resolution properly executed submissions to arbitration but are required to submit to arbitration pursuant to Rule 10301 of the NASD Code of Arbitration Procedure (the "Code") and having answered the claim, appeared and testified at the hearing are bound by the determination of the arbitration panel on all issues submitted.

On or about January 9, 2004, the parties filed a Joint Motion to Dismiss with Prejudice and to Expunge the Record of Herbert Paul. The Panel deferred ruling on the motion until the final hearing.

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. In either case, the parties have agreed to receive conformed copies of the award while the original(s) remain on file with NASD Dispute Resolution ("NASD").

AWARD

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

- 1.) Claimants' claims, each and all, are hereby denied and dismissed with prejudice;
- 2.) Other than Forum Fees which are specified below, the parties shall each bear their own costs and expenses incurred in this matter;
- 3.) The panel recommends the expungement of all reference to the above captioned arbitration from Respondent, Herbert A. Paul's, registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 99-09, Respondent, Herbert A. Paul, must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.
- 6.) The Panel denied John K. Hawley's request for an expungement; and
- 7.) Any relief not specifically enumerated, including punitive damages and attorney fees, is hereby denied with prejudice.

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 = \$300.00

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

Adjournment Fees

Adjournments granted during these proceedings:

July 14-15, 2004, adjournment by Claimant = \$ 1,125.00

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:

One (1) Pre-hearing session with Panel x \$1,125.00 = \$ 1,125.00
Pre-hearing conference: December 19, 2003 1 session
Three (3) Hearing sessions x \$1,125.00 = \$ 3,375.00
Hearing Dates: October 28, 2004 3 sessions

Total Forum Fees = \$ 4,500.00

The Arbitration Panel has assessed \$2,250.00 of the forum fees to Teresa Perches Alexander and Letede, S.A. de C.V.

The Arbitration Panel has assessed \$2,250.00 of the forum fees jointly and severally to Merrill Lynch Pierce Fenner & Smith, Inc. and John K. Hawley.

FEE SUMMARY

Claimant, Teresa Perches Alexander and Letede, S.A. de C.V., is liable for:

Initial Filing Fee	= \$ 300.00
Adjournment Fee	= \$ 1,125.00
Forum Fees	= \$ 2,250.00
Total Fees	= \$ 3,675.00
Less payments	= \$ 1,425.00
Balance Due NASD Dispute Resolution	= \$ 2,250.00

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

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

Respondents, Merrill Lynch Pierce Fenner & Smith, Inc. and John K. Hawley, are jointly and severally liable for:

Forum Fees	= \$ 2,250.00
Total Fees	= \$ 2,250.00
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 2,250.00

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

ARBITRATION PANEL

Irwin S. Sugerman - Public Arbitrator, Presiding Chair
Richard R. Nelson, Jr. - Public Arbitrator
Charles A. Bankston - Non-Public Arbitrator

Concurring Arbitrators:

/s/ Irwin S. Sugerman
Irwin S. Sugerman
Public Arbitrator, Presiding Chair

November 3, 2004
Signature Date

/s/ Richard R. Nelson, Jr.
Richard R. Nelson, Jr.
Public Arbitrator

November 3, 2004
Signature Date

/s/ Charles A. Bankston
Charles A. Bankston
Non-Public Arbitrator

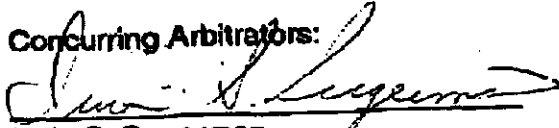
November 3, 2004
Signature Date

November 3, 2004
Date of Service (For NASD office use only)

ARBITRATION PANEL

Irwin S. Sugerman - Public Arbitrator, Presiding Chair
Richard R. Nelson, Jr. - Public Arbitrator
Charles A. Bankston - Non-Public Arbitrator

Concurring Arbitrators:



Irwin S. Sugerman
Public Arbitrator, Presiding Chair

11-3-04
Signature Date

Richard R. Nelson, Jr.
Public Arbitrator

Signature Date

Charles A. Bankston
Non-Public Arbitrator

Signature Date

Date of Service (For NASD office use only)

ARBITRATION PANEL

Irwin S. Sugerman - Public Arbitrator, Presiding Chair
Richard R. Nelson, Jr. - Public Arbitrator
Charles A. Bankston - Non-Public Arbitrator

Concurring Arbitrators:

Irwin S. Sugerman
Public Arbitrator, Presiding Chair

Signature Date



Richard R. Nelson, Jr.
Public Arbitrator

NOVEMBER 3, 2004
Signature Date

Charles A. Bankston
Non-Public Arbitrator

Signature Date

Date of Service (For NASD office use only)

ARBITRATION PANEL

Irwin S. Sugerman - Public Arbitrator, Presiding Chair
Richard R. Nelson, Jr. - Public Arbitrator
Charles A. Bankston - Non-Public Arbitrator

Concurring Arbitrators:

Irwin S. Sugerman
Public Arbitrator, Presiding Chair

Signature Date

Richard R. Nelson, Jr.
Public Arbitrator

Signature Date



Charles A. Bankston
Non-Public Arbitrator

11/03/04

Signature Date

Date of Service (For NASD office use only)