

Stipulated Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

THOMAS S. CROW, DORIS B. CROW, THE DORIS B. CROW REVOCABLE TRUST, THE THOMAS S. CROW REVOCABLE TRUST, AND THE CROW 1999 IRREVOCABLE TRUST, (Claimants) vs. MERRILL LYNCH PIERCE, FENNER & SMITH INCORPORATED AND PAUL A. LINDSEY, (Respondents).

Case Number: 03-03612

Hearing Site: New York, New York

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

REPRESENTATION OF PARTIES

Claimants Thomas S. Crow ("T. Crow"), Doris B. Crow ("D. Crow"), the Doris B. Crow Revocable Trust ("D. Crow Trust"), the Thomas S. Crow Revocable Trust ("T. Crow Trust"), and the Crow 1999 Irrevocable Trust ("1999 Trust"), hereinafter collectively referred to as "Claimants": Roger B. Kaplan, Esq.; Lawrence C. Weiner, Esq., Wilentz, Goldman & Spitzer P.A., Woodbridge, NJ.

Respondents Merrill Lynch, Pierce, Fenner & Smith Incorporated ("Merrill Lynch") and Paul A. Lindsey ("Lindsey") hereinafter collectively referred to as "Respondents": Andrew W. Stern, Esq.; Daniel A. McLaughlin, Esq., Sidley Austin Brown & Wood LLP, New York, NY.

CASE INFORMATION

Statement of Claim filed on or about: May 16, 2003.

Claimants signed the Uniform Submission Agreement on or about: June 17, 2003.

Joint Answer filed by Respondents on or about: September 10, 2003.

Respondent Merrill Lynch signed the Uniform Submission Agreement: September 11, 2003.

Respondent Lindsey signed the Uniform Submission Agreement: September 11, 2003.

CASE SUMMARY

Claimants asserted the following causes of action: Common Law Fraud, Equitable Fraud, Negligence, Negligent Supervision and Compliance as to Merrill and its Managers, including NASD Art. III Sec. 1, Rule 2152 Sec. 2, Rule 2168 Sec. 18, Rule 2177 Sec. 27(a), Rule 2150, Rule 2120, Rule 2310, Rule 2440, Rule 2520, and Rule 3010, Breach of Contract, Breach of

Implied Covenant of Good Faith and Fair Dealing, and Breach of Fiduciary Duty. Claimants' claim involved various common stocks, mutual funds, government securities, and municipal bonds.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted the following defenses: Failure to State a Claim, Failure to Comply with Account Agreement, Ratification/Authorization/Approval, Laches/Estoppel/Waiver, Failure to Mitigate Damages, Failure of Proximate Causation.

RELIEF REQUESTED

Claimants requested: Damages of \$3 million, plus \$3 million of punitive damages, plus attorneys' fees and costs.

Respondents Merrill Lynch and Lindsey requested: Dismissal of the Statement of Claim in its entirety and Costs, Attorneys' Fees, and a Recommendation of Expungement of the claim from the CRD record of Respondent Lindsey.

OTHER ISSUES CONSIDERED AND DECIDED

On or about October 6, 2004, NASD Dispute Resolution was notified that the parties settled this matter.

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

AWARD

The parties entered into an agreement to present to the Panel a Stipulated Award. Now, in lieu of a hearing and upon motion of both parties for an entry of an award, the written stipulation thereto, the Panel grants the motion and enters this award granting the following relief:

- 1.) All claims against Respondent Lindsey are hereby dismissed with prejudice.
- 2.) The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Paul Lindsey's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notices to Members 99-09 and 99-54, Respondent Paul A. Lindsey must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.
- 3.) All claims against Respondent Merrill Lynch are hereby dismissed with prejudice.

- 4.) All claims against Claimants, including but not limited to claims for costs and attorneys' fees, are hereby dismissed with prejudice.
- 5.) Any relief not specifically addressed herein, including punitive damages, 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 = \$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 person at the time of the events giving rise to the dispute. In this matter, Merrill Lynch, Pierce, Fenner & Smith, Inc. is a party.

Member Surcharge	= \$3,350.00
Pre-Hearing Process Fee	= \$ 750.00
<u>Hearing Process Fee</u>	= \$5,500.00
<u>Total Member Fees</u>	= \$9,600.00

Adjournment Fees

The following adjournment fees are assessed:

September 28-30, 2004, and October 1, 2004, adjournment by Claimants = \$1,200.00

Forum Fees and Assessments

The 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. Forum fees associated with these proceedings are:

Four (4) Pre-hearing conference sessions with the Panel @ \$1,200.00/session	= \$4,800.00
Pre-hearing conferences:	
January 12, 2004	1 session
August 13, 2004	1 session
August 19, 2004	1 session
September 10, 2004	1 session

Four (4) Hearing sessions @ \$1,200.00/session	= \$4,800.00
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Hearings:	October 5, 2004	2 sessions
	October 6, 2004	2 sessions

Total Forum Fees	≈ \$9,600.00
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1. The Panel has assessed \$4,800.00 of the forum fees jointly and severally against Claimants.
2. The Panel has assessed \$4,800.00 of the forum fees jointly and severally against Respondents.

Fee Summary

1. Claimants are jointly and severally liable for:

Initial Filing Fee	= \$ 600.00
Adjournment Fee	= \$ 1,200.00
<u>Forum Fees</u>	<u>= \$ 4,800.00</u>
Total Fees	= \$ 6,600.00
<u>Less payments</u>	<u>= \$ 3,000.00</u>
Balance Due NASD Dispute Resolution	= \$ 3,600.00

2. Respondent Merrill Lynch be and hereby is solely liable for:

<u>Member Fees</u>	<u>= \$ 9,600.00</u>
Total Fees	= \$ 9,600.00
<u>Less payments</u>	<u>= \$ 9,600.00</u>
Balance Due NASD Dispute Resolution	= \$ 0.00

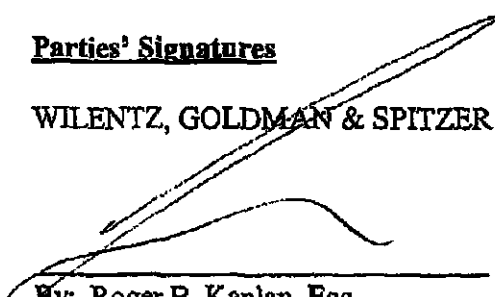
3. Respondents are jointly and severally liable for:

<u>Forum Fees</u>	<u>= \$ 4,800.00</u>
Total Fees	= \$ 4,800.00
<u>Less payments</u>	<u>= \$ 0.00</u>
Balance Due NASD Dispute Resolution	= \$ 4,800.00

All balances are due and payable to NASD Dispute Resolution

Parties' Signatures

WILENTZ, GOLDMAN & SPITZER P.A.



By: Roger B. Kaplan, Esq.
Lawrence C. Weiner, Esq.
90 Woodbridge Center Drive
Suite 900 Box 10
Woodbridge, New Jersey 07095
Attorney for Claimants Thomas S. Crow,
Doris B. Crow, the Doris B. Crow Revocable
Trust, the Thomas S. Crow Revocable Trust,
and the Crow 1999 Irrevocable Trust

SIDLEY AUSTIN BROWN & WOOD LLP

By: Andrew W. Stern, Esq.
Daniel A. McLaughlin, Esq.
787 Seventh Avenue
New York, NY 10018
Attorneys for Merrill Lynch, Pierce, Fenner &
Smith, Inc. and Paul A. Lindsey

2/7/05

Signature Date

Signature Date


Parties' Signatures

WILENTZ, GOLDMAN & SPITZER P.A.

By: Roger B. Kaplan, Esq.
Lawrence C. Weiner, Esq.
90 Woodbridge Center Drive
Suite 900 Box 10
Woodbridge, New Jersey 07095
Attorney for Claimants Thomas S. Crow,
Doris B. Crow, the Doris B. Crow Revocable
Trust, the Thomas S. Crow Revocable Trust,
and the Crow 1999 Irrevocable Trust

Signature Date

SIDLEY AUSTIN BROWN & WOOD LLP

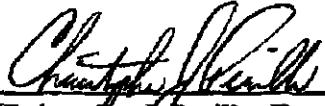

By: Andrew W. Stern, Esq.
Daniel A. McLaughlin, Esq.
787 Seventh Avenue
New York, NY 10018
Attorneys for Merrill Lynch, Pierce, Fenner &
Smith, Inc. and Paul A. Lindsey

2/7/05
Signature Date

ARBITRATION PANEL

Christopher J. Perillo, Esq.	-	Public Arbitrator, Presiding Chair
Robert L. Nisely, Esq.	-	Public Arbitrator
John W. Engilskerger	-	Non-Public Arbitrator

Concurring Arbitrators Signatures



Christopher J. Perillo, Esq.
Public Arbitrator, Presiding Chair

3/22/05

Signature Date

Robert L. Nisely, Esq.
Public Arbitrator

Signature Date

John W. Engilskerger
Non-Public Arbitrator

Signature Date

April 4, 2005

Date of Service (For NASD office use only)

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John W. Engelskerger	-	Non-Public Arbitrator

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Christopher J. Perillo, Esq.
Public Arbitrator, Presiding Chair

Robert L. Nisely, Esq.
Public Arbitrator

John W. Engelskerger
Non-Public Arbitrator

Signature Date

4/3/03
Signature Date

Signature Date

April 4, 2005
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Public Arbitrator, Presiding Chair

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Robert L. Nisely, Esq.
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