

**Stipulated Award**  
**NASD Dispute Resolution**

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In the Matter of the Arbitration Between:

Names of the Claimants

Reginald Blackshear  
Michelle Blackshear

Case Number: 03-03792

Names of the Respondents

Merrill Lynch Pierce Fenner & Smith, Inc.  
Merrill Lynch Credit Corporation  
Curtis R. Murry

Hearing Site: Charlotte, North Carolina

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

REPRESENTATION OF PARTIES

Claimants Reginald and Michelle Blackshear, hereinafter collectively referred to as "Claimants", were represented by David J. Grubber, Esq. Lehman, Lehman & Gruber, Livingston, New Jersey.

Respondents Merrill Lynch Pierce Fenner & Smith Inc. "Merrill Lynch", Merrill Lynch Credit Corporation "Merrill Corp.", and Curtis R. Murry "Murry", hereinafter collectively referred to as "Respondents", were represented by Lawrence Ross, Bressler, Amery & Ross, P.C., Florham Park, New Jersey.

CASE INFORMATION

Statement of Claim filed on May 21, 2003.

Claimant signed the Uniform Submission Agreement on May 22, 2003.

Statement of Answer and Counterclaim filed by Respondents on January 13, 2004.

A representative of Respondent Merrill Corp. executed the Uniform Submission Agreement on February 23, 2004.

A representative of Respondent Merrill Lynch executed the Uniform Submission Agreement on January 26, 2004.

Respondent Murry signed the Uniform Submission Agreement on May 14, 2004.

CASE SUMMARY

Claimants asserted the following causes of action, among others: misrepresentation and omission of material facts, negligence, breach of fiduciary duty, breach of contract, and failure to supervise. The causes of action are related to the purchase and sale of variable annuities.

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, failure to mitigate, ratification, and claims are barred by the doctrines of waiver, laches, estoppel, and by the applicable statutes of limitation. Further,

Respondents asserted a breach of contract claim in their Statement of Counterclaim.

RELIEF REQUESTED

Claimants in their Statement of Claim requested:

Compensatory Damages	\$ 500,000.00
Punitive Damages	\$ 500,000.00
Interest	amount unspecified
Attorneys' Fees	amount unspecified
Other Costs	amount unspecified

Respondents in their Statement of Answer and Counterclaim requested that the Statement of Claim be dismissed with prejudice; that Respondent Merrill Corp. be awarded \$51,954.81 plus accrued interests; that the Panel enter an order expunging this claim from the registration records of Respondent Murry; and that Respondents are awarded reasonable attorney's fees, costs and any other relief the Panel should find just and equitable.

OTHER ISSUES CONSIDERED AND DECIDED

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. Parties have also agreed that this stipulated award may be executed by a Panel of two arbitrators.

AWARD

On October 5, 2005, Claimants and Respondents reached a settlement of all claims, and subsequently entered into a confidential settlement agreement. The parties have agreed to present to the Panel a Stipulated Award. Now, in lieu of a hearing and upon motion of Respondents for entry of an award, the written stipulation thereto, the Panel hereby grants the motion and enters this award granting the following relief:

1. Claimants' claims are hereby dismissed with prejudice;
2. Respondent Merrill Corp.'s counterclaim is hereby dismissed with prejudice;
3. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Murry'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 Murry must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive;
4. The parties shall bear their respective costs, including attorneys' fees, except as Fees are specifically addressed below; and

5. 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	= \$ 375.00
Counter claim filing fee	= \$ 1,000.00

#### Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firms that employed the associated person(s) at the time of the events giving rise to the dispute. Accordingly, Respondent Merrill Lynch is a party.

Member surcharge	= \$ 2,250.00
Pre-hearing process fee	= \$ 750.00
<u>Hearing process fee</u>	<u>= \$ 4,000.00</u>
Total Member Fees	= \$ 7,000.00

#### Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

February 7-11, 2005, adjournment by Claimants	= \$ 1,200.00
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1. The Panel has assessed \$ 1,200.00 of the adjournment fees to Claimants.

#### Forum Fees and Assessments

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 @ \$ 1,200.00	= \$ 1,200.00
<u>Pre-hearing conference: June 3, 2004 1 session</u>	
Total Forum Fees	= \$ 1,200.00

1. The Panel has assessed \$ 600.00 of the forum fees to Claimants.
2. The Panel has assessed \$ 300.00 of the forum fees to Respondent Merrill Lynch.
3. The Panel has assessed \$ 300.00 of the forum fees to Respondent Murry.

### FEE SUMMARY

1. Claimants are assessed and shall pay the following fees:  
Filing Fee = \$ 375.00

Adjournment Fee	= \$ 1,200.00
<u>Forum Fees</u>	= \$ 600.00
Total Fees	= \$ 2,175.00
<u>Less payments</u>	= \$ 1,800.00
Balance Due NASD Dispute Resolution	= \$ 375.00

2. Respondent Merrill Lynch is assessed and shall pay the following fees:

Filing Fee	= \$ 1,000.00
Member Fees	= \$ 7,000.00
<u>Forum Fees</u>	= \$ 300.00
Total Fees	= \$ 8,300.00
<u>Less payments</u>	= \$ 8,750.00
Refund Due Respondent Merrill Lynch	= \$ 450.00

4. Respondent Murry is assessed and shall pay the following fees:

<u>Forum Fees</u>	= \$ 300.00
Total Fees	= \$ 300.00
<u>Less payments</u>	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 300.00

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

ARBITRATION PANEL

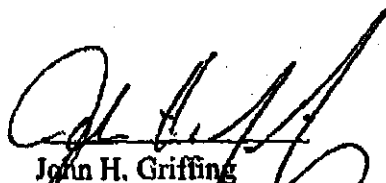
Larry A. Feldman  
John H. Griffing

- Public Arbitrator, Presiding Chairperson  
- Public Arbitrator, Panelist

Concurring Arbitrators' Signatures

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Larry A. Feldman  
Public Arbitrator, Presiding Chairperson

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Signature Date

  
John H. Griffing  
Public Arbitrator, Panelist

2-21-2006  
Signature Date

March 1, 2006  
Date of Service (For NASD Dispute Resolution office use only)

Concurring Arbitrators' Signatures



Larry A. Feldman  
Public Arbitrator, Presiding Chairperson

FEB 15<sup>TH</sup> 2006

Signature Date

\_\_\_\_\_  
John H. Griffing  
Public Arbitrator, Panelist

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Signature Date

March 2006  
Date of Service (For NASD Dispute Resolution office use only)