

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Walter Handlin (Claimant) v. Merrill Lynch, Pierce, Fenner & Smith, Inc. and Daniel E. Gleeson (Respondents)

Case Number: 03-03902

Hearing Site: New York, New York

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

REPRESENTATION OF PARTIES

Claimant Walter Handlin ("Handlin") hereinafter referred to as "Claimant": Richard W. Vallario, Esq., Nutley, NJ.

Respondents Merrill Lynch, Pierce, Fenner & Smith, Inc. ("Merrill Lynch") and Daniel E. Gleeson ("Gleeson") hereinafter collectively referred to as "Respondents": Brett D. Sherman, Esq., previously Elyse N. Post, Esq., Merrill Lynch, Pierce, Fenner & Smith, Inc., New York, NY.

CASE INFORMATION

Statement of Claim filed on or about: May 29, 2003.

Claimant signed the Uniform Submission Agreement: May 27, 2003.

Joint Statement of Answer filed by Respondents on or about: August 29, 2003.

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

Respondent Gleeson signed the Uniform Submission Agreement: November 14, 2003.

CASE SUMMARY

Claimant asserted the following causes of action: breach of fiduciary duty; negligence; failure to supervise; misrepresentation; unauthorized trading; omission of facts; and suitability. Claimant's claim involved mutual funds and municipal bond funds.

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

RELIEF REQUESTED

Claimant requested compensatory damages in the amount of \$85,000.00; attorneys' fees; costs; and interest.

Respondents requested that the Statement of Claim be dismissed in its entirety; an order that directs that all references of this proceeding and the underlying complaint be expunged from the CRD records of Respondent Gleeson; and such other and further relief as is deemed just and proper.

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.

AWARD

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

1. Claimant's claims are denied in their entirety.
2. Any and all relief not specifically addressed herein is denied.

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
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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, Merrill Lynch, Pierce, Fenner & Smith, Inc. is a party.

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

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 Panel @ \$750.00 = \$ 750.00
Pre-hearing conference: March 8, 2004 1 session

Six (6) Hearing sessions @ \$750.00 = \$4,500.00
Hearing Dates: October 4, 2004 2 sessions
October 8, 2004 2 sessions
October 12, 2004 2 sessions

Total Forum Fees = \$5,250.00

1. The Panel has assessed \$2,625.00 of the forum fees against Claimant.
2. The Panel has assessed \$2,625.00 of the forum fees jointly and severally against Respondents.

Fee Summary

1. Claimant is solely liable for:

Initial Filing Fee	= \$ 225.00
<u>Forum Fees</u>	= \$ 2,625.00
Total Fees	= \$ 2,850.00
<u>Less payments</u>	= \$ 975.00
Balance Due NASD Dispute Resolution	= \$ 1,875.00
2. Respondent Merrill Lynch is solely liable for:

<u>Member Fees</u>	= \$ 3,550.00
Total Fees	= \$ 3,550.00
<u>Less payments</u>	= \$ 3,550.00
Balance Due NASD Dispute Resolution	= \$ 0.00
3. Respondents are jointly and severally liable for:

<u>Forum Fees</u>	= \$ 2,625.00
Total Fees	= \$ 2,625.00
<u>Less payments</u>	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 2,625.00

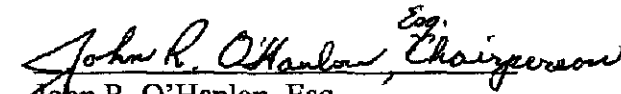
All balances are payable to NASD Dispute Resolution and are due upon receipt pursuant to Rule 10330(g) of the Code.

ARBITRATION PANEL

John R. O'Hanlon, Esq.	-	Public Arbitrator, Presiding Chairperson
Gayle S. Sanders, Esq.	-	Public Arbitrator
David Denison	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

I, the undersigned arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument in which is my award.


John R. O'Hanlon, Esq.
Public Arbitrator, Presiding Chairperson

10-25-04
Signature Date

Gayle S. Sanders, Esq.
Public Arbitrator

Signature Date

David Denison
Non-Public Arbitrator

Signature Date

October 25, 2004
Date of Service (For NASD Dispute Resolution use only)

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Public Arbitrator, Presiding Chairperson

Signature Date

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Public Arbitrator

Signature Date

David Denison
Non-Public Arbitrator

Signature Date

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John R. O'Hanlon, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

Gayle S. Sanders, Esq.
Public Arbitrator

Signature Date



David Denison
Non-Public Arbitrator

10/14/04

Signature Date

October 25, 2004

Date of Service (For NASD Dispute Resolution use only)