

**STIPULATED AWARD
NASD Dispute Resolution**

In the Matter of the Arbitration Between

Claimant

Bernard Beauvais

and

Case Number: 03-03989
Hearing Site: Detroit, Michigan

Respondents

Merrill Lynch Pierce Fenner & Smith, Inc.,
and Kevin F. Shamblin

NATURE OF CASE

Customer v. Member and Associated Person

REPRESENTATION OF PARTIES

Bernard Beauvais ("Claimant") was represented by Kathleen P. Toolan, Esq., Levin Papantonio, Thomas, Eschner & Proctor, P.A., Pensacola, Florida.

Merrill Lynch Pierce Fenner & Smith, Inc. ("MLPFS") and Kevin F. Shamblin ("Shamblin"), hereinafter collectively referred to as "Respondents," were represented by Thomas A. Farnen, Esq., Sutherland Asbill & Brennan LLP, Atlanta, Georgia.

CASE INFORMATION

The Statement of Claim was filed on or about June 2, 2003. The Submission Agreement of Claimant was signed on or about April 14, 2003.

The Statement of Answer was filed jointly by Respondents on or about September 3, 2003. The Submission Agreement of MLPFS was signed on or about July 21, 2003. The Submission Agreement of Shamblin was signed on or about June 30, 2003.

Respondents filed a Motion to Strike, Motion to Dismiss, and Motion for a More Definite Statement on or about September 3, 2003. Claimant filed a Response to the Motion on or about October 6, 2003. Respondents filed a Reply to Claimant's Response to their Motion on or about March 19, 2004.

CASE SUMMARY

Claimant asserted the following causes of action: breach of fiduciary duty, fraud, negligent misrepresentation, negligence, and state and federal securities fraud. The causes of action related to Claimant's allegations that Respondents failed to properly allocate Claimant's portfolio and recommended unspecified unsuitable investments. Claimant also asserted that Respondents utilized fraudulent analyst reports recommending the purchase of common stock of companies without any reasonable factual basis.

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 an award in the amount of \$113,471,64, plus punitive damages, interest, costs, attorneys' fees, and such other damages the panel deemed appropriate.

Respondents requested that the claims asserted against them be dismissed in their entirety, that they be awarded their costs and attorneys' fees, and that all references to this matter be expunged from Respondent Shamblin's CRD records.

OTHER ISSUES CONSIDERED & DECIDED

Claimant and MLPFS have entered into a confidential settlement agreement. In connection with that agreement, Claimant dismissed all claims with prejudice against MLPFS and Shamblin with prejudice. 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 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 the NASD Dispute Resolution (the "NASD").

AWARD

After considering the parties' submissions and representations, but without making any findings of fact or conclusions of law, the undersigned arbitrators order as follows:

- 1.) Claimant's claims, having been withdrawn, are 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 Kevin F. Shamblin's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 99-09, Respondent Kevin F. Shamblin must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive; and
- 5.) Any relief not specifically enumerated, including punitive damages and attorneys' fees, is hereby dismissed 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 person 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 requested during these proceedings:

October 6-8, 2004, adjournment requested by Claimant (waived by panel)	= \$ 1,125.00
October 4-6, 2005, adjournment requested jointly (waived by panel)	= \$ 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 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 a single arbitrator x \$450.00 = \$ 450.00
Pre-hearing conference: May 18, 2004 1 session

Two (2) Pre-hearing sessions with Panel x \$1,125.00 = \$ 2,250.00
Pre-hearing conferences: March 24, 2004 1 session
April 21, 2004 1 session

Total Forum Fees = \$ 2,700.00

The Arbitration Panel has assessed \$1,350.00 of the forum fees to Bernard Beauvais.

The Arbitration Panel has assessed \$1,350.00 of the forum fees jointly and severally to Merrill Lynch Pierce Fenner & Smith, Inc., and Kevin F. Shamblin.

FEE SUMMARY

Claimant, Bernard Beauvais, is liable for:

Initial Filing Fee	= \$ 300.00
Forum Fees	= \$ 1,350.00
Total Fees	= \$ 1,650.00
Less payments	= \$ 1,425.00
Balance Due NASD Dispute Resolution	= \$ 175.00

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. Kevin F. Shamblin, are jointly and severally liable for:

Forum Fees	= \$ 1,350.00
Total Fees	= \$ 1,350.00
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 1,350.00

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

ARBITRATION PANEL

William P. Thorpe, Esq. - Public Arbitrator, Presiding Chair
Walter H. Clements, Esq. - Public Arbitrator
William C. Kubicz - Non-Public Arbitrator

Concurring Arbitrators:

/s/ William P. Thorpe, Esq.
William P. Thorpe, Esq.
Public Arbitrator, Presiding Chair

09/15/05
Signature Date

/s/ Walter H. Clements, Esq.
Walter H. Clements, Esq.
Public Arbitrator

09/15/05
Signature Date

/s/ William C. Kubicz
William C. Kubicz
Non-Public Arbitrator

09/19/05
Signature Date

09/20/05
Date of Service (For NASD office use only)

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ARBITRATION PANEL

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Walter H. Clements, Esq. - Public Arbitrator
William C. Kubicz - Non-Public Arbitrator

Concurring Arbitrators:

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Public Arbitrator, Presiding Chair

Signature Date

Walter H. Clements, Esq.
Public Arbitrator

Signature Date

William C. Kubicz

William C. Kubicz
Non-Public Arbitrator

9/19/05

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Public Arbitrator, Presiding Chair

9/17/05
Signature Date

Walter H. Clements, Esq.
Public Arbitrator

Signature Date

William C. Kubicz
Non-Public Arbitrator

Signature Date

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ARBITRATION PANEL

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Walter H. Clements, Esq. - Public Arbitrator
William C. Kubicz - Non-Public Arbitrator

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Public Arbitrator, Presiding Chair



Walter H. Clements, Esq.
Public Arbitrator

Signature Date

9-15-05

Signature Date

William C. Kubicz
Non-Public Arbitrator

Signature Date

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