

**STIPULATED AWARD
NASD Dispute Resolution**

In the Matter of the Arbitration Between

Name of Claimants

Safwan Barakat, Sally A. Barakat, Jamal Barakat UTMA/IL, and
Omar Barakat UTMA/IL

and

03-04072
Chicago, Illinois

Name of Respondents

Merrill Lynch Pierce Fenner & Smith, Inc.
Rajesh Bhatia

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

REPRESENTATION OF PARTIES

Safwan Barakat, Sally A. Barakat, Jamal Barakat UTMA/IL, and Omar Barakat UTMA/IL ("Claimants") were represented by Frederick C. Kramer, Esq., Kramer & Gold, Marco Island, Florida

Merrill Lynch Pierce Fenner & Smith, Inc. ("Respondent MLPF & S") and Rajesh Bhatia ("Respondent Bhatia") hereinafter referred to as ("Respondents") were represented by Ellen S. Robbins, Esq., Kyle D. Rettberg, Esq., Sidley Austin Brown & Wood LLP, Chicago, Illinois

CASE INFORMATION

The Statement of Claim was filed on or about June 4, 2003. Amended Statement of Claim was filed on or about October 13, 2004. Submission Agreement of Claimants Safwan Barakat, Sally A. Barakat, Jamal Barakat UTMA/IL, and Omar Barakat UTMA/IL was signed on May 14, 2003.

Statement of Answer was filed by Respondents Merrill Lynch Pierce Fenner & Smith, Inc. and Rajesh Bhatia on or about September 30, 2003. Submission Agreement of Respondent Merrill Lynch Pierce Fenner & Smith, Inc. was signed on July 29, 2003. Submission Agreement of Respondent Rajesh Bhatia was signed on

CASE SUMMARY

Claimants asserted the following causes of action against Respondents: lack of suitability, breach of contract, negligent misrepresentation, failure to exercise fiduciary responsibility, and failure to

supervise.

Respondents Merrill Lynch and Bhatia filed an Answer to Claimants' Amended Statement of Claim denying any and all allegations of wrongdoing, and asserting the following affirmative defenses: Failure to state a claim upon which relief can be granted Respondents did not cause any of Claimants' alleged damages, failure to mitigate damages, good faith, estoppel, waiver, commercially reasonable conduct, ratification, assumption of risk, adherence to applicable securities industry rules and regulations, laches, contributory and/or comparative negligence, and unjust enrichment.

Claimants have dismissed with prejudice the Arbitration involving these claims against Merrill Lynch.

RELIEF REQUESTED

Claimants requested an award of actual damages in the amount of \$2,231,943 and punitive damages in the amount of \$1,000,000, interest and costs.

Respondents requested that the claims asserted against them be denied in their entirety and that they be awarded their costs and attorneys' fees.

OTHER ISSUES CONSIDERED & DECIDED

Respondent Rajesh Bhatia did not file with the NASD Dispute Resolution a properly executed submission to arbitration but is required to submit to arbitration pursuant to Rule 10301 of the NASD Code of Arbitration Procedure (the "Code") and having answered the claim is bound by the determination of the arbitration panel on all issues submitted.

The parties advised NASD Dispute Resolution that they entered into an agreement to settle this matter on certain terms and conditions set forth in a confidential settlement agreement.

The parties have agreed that the Stipulated Award in this matter may be executed in counterpart copies. 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 pleadings and the stipulation of the parties, but without making any findings of fact or conclusions of law, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination and find as follows:

1. All claims against Respondents Merrill Lynch and Bhatia have been voluntarily dismissed with prejudice by Claimants.

2. The panel recommends the expungement of all reference to the above captioned arbitration from Respondent Bhatia's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 99-09 and 99-54, Respondent Bhatia must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.
3. The parties shall bear their respective costs, including attorneys' fees, except as Fees are addressed below.
4. Any and all relief not specifically enumerated, including punitive damages and interest, 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(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute. In this matter, the member firm(s) is Merrill Lynch Pierce Fenner & Smith, Inc.

Member surcharge	\$ 2,800.00
Pre-hearing process fee	\$ 750.00
Hearing process fee	\$ 5,000.00
Total Member Fees	\$ 8,550.00

Adjournment Fees

Adjournments requested during these proceedings:

Hearing Date(s), November 2-4, 2004 adjournment requested by during pre-hearing = \$1,200.00
conference held October 29, 2004

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:

4 Pre-hearing session(s) with Panel	x	1,200.00	\$	4,800.00
May 17, 2004	1	session		
June 30, 2004	1	session		
October 29, 2004	1	session		
May 23, 2004	1	session		
Total Forum Fees			\$	4,800.00

The Arbitration Panel has assessed \$2,400.00 of the forum fees to Safwan Barakat, Sally A. Barakat, Jamal Barakat UTMA/IL, and Omar Barakat UTMA/IL.

The Arbitration Panel has assessed \$2,400.00 of the forum fees jointly and severally to Merrill Lynch Pierce Fenner & Smith, Inc. and Rajesh Bhatia.

Fee Summary

Claimants, Safwan Barakat, Sally A. Barakat, Jamal Barakat UTMA/IL, and Omar Barakat UTMA/IL are jointly and severally liable for:

Initial Filing Fee	= \$	600.00
Adjournment Fee	= \$	600.00
<u>Forum Fees</u>	= \$	2,400.00
Total Fees	= \$	3,600.00
<u>Less payments</u>	= \$	-1,800.00
Balance Due NASD Dispute Resolution	= \$	1,800.00

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

Member Fees	= \$	8,550.00
Total Fees	= \$	8,550.00
<u>Less payments</u>	= \$	-8,550.00
Balance Due NASD Dispute Resolution	= \$	0.00

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Respondents, Merrill Lynch Pierce Fenner & Smith, Inc. and Rajesh Bhatia, are jointly and severally liable for:

Adjournment Fee	= \$	600.00
<u>Forum Fees</u>	= \$	2,400.00
Total Fees	= \$	3,000.00
<u>Less payments</u>	= \$	-0.00
Balance Due NASD Dispute Resolution	= \$	3,000.00

All balances are due to NASD Dispute Resolution

ARBITRATION PANEL

James J. Stamos, Esq. - Public Arbitrator, Presiding Chair
 Stephen W. Heil - Public Arbitrator
 Susan K. Franz - Non-Public Arbitrator

Concurring Arbitrators:



James J. Stamos, Esq.
 Public Arbitrator, Presiding Chair

9-30-05

Signature Date

Stephen W. Heil
 Public Arbitrator

Signature Date

Susan K. Franz
 Non-Public Arbitrator

Signature Date

9-30-05

Date of Service (For NASD office use only)

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Arbitration No. 03-04072
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Respondents, Merrill Lynch Pierce Fenner & Smith, Inc. and Rajesh Bhatia, are jointly and severally liable for:

Adjournment Fee	= \$	600.00
<u>Forum Fees</u>	= \$	<u>2,400.00</u>
Total Fees	= \$	3,000.00
<u>Less payments</u>	= \$	<u>-0.00</u>
Balance Due NASD Dispute Resolution	= \$	3,000.00

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Public Arbitrator

Signature Date



Susan K. Franz
Non-Public Arbitrator

09-29-05

Signature Date

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