

Stipulated Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimant

Gary E. McCord, Individually
Gary E. McCord, Trustee, DDS Profit Sharing Plan

Case Number: 03-04245

Names of the Respondents

Merrill Lynch, Pierce, Fenner & Smith Inc.
Joseph M. Beckert

Hearing Site: Charlotte, North Carolina

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

REPRESENTATION OF PARTIES

Claimant, Gary E. McCord, individually and Gary McCord as trustee for the Gary E. McCord, D.D.S. Profit Sharing Plan, hereinafter referred to as "Claimant", was represented by Joseph W. Moss, Jr. Esq., Bishop, Capitano & Abner, Charlotte, North Carolina.

Respondents, Merrill Lynch, Pierce, Fenner & Smith, Incorporated, ("Merrill Lynch") and Joseph M. Beckert ("Beckert"), hereinafter referred to as "Respondents", were represented by Harry D. Frisch, Esq., Office of General Counsel, Merrill Lynch, Pierce, Fenner & Smith Incorporated, New York, New York.

CASE INFORMATION

Statement of Claim filed on June 10, 2003.

Claimant signed the Uniform Submission Agreement on June 9, 2003.

Statement of Answer filed by Respondents on September 16, 2003.

A representative of Merrill Lynch signed the Uniform Submission Agreement on July 28, 2003.

Respondent Beckert signed the Uniform Submission Agreement on January 21, 2004.

Merrill Lynch and Beckert submitted a Motion to Interpose Third Party Claim for Indemnification on September 16, 2003.

Claimant submitted a reply to Counterclaim and Response to Motion to Interpose Third Party Claim on October 6, 2003.

CASE SUMMARY

Claimant asserted the following causes of action, among others: negligence, failure to supervise, breach of fiduciary duty, misrepresentations, omission of facts, and suitability. The causes of action relate to the purchase of unspecified securities.

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 can be granted, statute of limitations, Claimant authorized all transactions, failure to mitigate, ratification, laches, estoppel, and reasonable supervisory systems were in the place.

RELIEF REQUESTED

Claimant requested compensatory damages equaling \$125,000 including: interest, punitive damages or in the alternative, treble damages, attorneys' fees and costs incurred, and such other and further relief deemed proper by the Arbitration Panel (the "Panel").

Respondents counterclaimed for indemnification, or in alternative, contribution. Respondents requested that the Statement of Claim be dismissed in its entirety and that an Order be entered directing the expungement of any reference to these matters from Respondent Beckert's records maintained at NASD's Central Registration Depository ("CRD"). Additionally, Respondents requested that attorneys' fees, costs, and forum fees be assessed against Claimant.

OTHER ISSUES CONSIDERED AND DECIDED

On or about September 1, 2004, the parties agreed to a settlement and requested that the Panel enter a Stipulated Award in 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

After considering the pleadings, the parties' agreement, and the proposed Stipulated Award, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. The parties have agreed to settle this matter. All claims and counterclaims are dismissed with prejudice.
2. The panel recommends the expungement of all reference to the above captioned arbitration from Respondent Beckert's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 99-09, Respondent Beckert 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 specifically addressed below; and

4. Any and all relief not specifically addressed herein, including punitive damages and treble damages, is denied in its entirety.

FEEES

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
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 firm that employed the associated person(s) at the time of the events giving rise to the dispute. In this matter, the member firm Merrill Lynch is a party.

Member surcharge	= \$1,700.00
Pre-hearing process fee	= \$ 750.00
<u>Hearing process fee</u>	<u>= \$2,750.00</u>
Total Member Fees	= \$5,200.00

Forum Fees and Assessments

The Panel has assessed forum fees for each session conducted. A session is any meeting between the parties and the arbitrator(s), including a pre-hearing conference with the arbitrator(s), that lasts four (4) hours or less. Fees associated with these proceedings are:

Two (2) Pre-hearing sessions with Panel @ \$1,125	
Pre-hearing conferences: January 20, 2004	2 sessions
	= \$2,250.00
Total Forum Fees	= \$2,250.00

1. The Panel has assessed \$562.50 of the forum fees against Claimants.
2. The Panel has assessed \$1,687.50 of the forum fees jointly and severally against Respondents.

FEE SUMMARY

1. Claimant is assessed and shall pay the following fees:

Initial Filing Fee	= \$ 300.00
<u>Forum Fees</u>	<u>= \$ 562.50</u>
Total Fees	= \$ 865.50
<u>Less payments</u>	<u>= \$1,575.00</u>
Refund owed to Claimants	= \$ 712.50

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

<u>Member Fees</u>	= \$5,200.00
<u>Total Fees</u>	= \$5,200.00
<u>Less payments</u>	= \$5,200.00
Balance Due NASD Dispute Resolution	= \$ 0.00

3. Respondents are jointly and severally assessed and shall pay the following fees:

<u>Forum Fees</u>	= \$1,687.50
<u>Filing Fee</u>	= \$1,000.00
<u>Total Fees</u>	= \$2,687.50
<u>Less payments</u>	= \$1,500.00
Balance Due NASD Dispute Resolution	= \$1,187.50

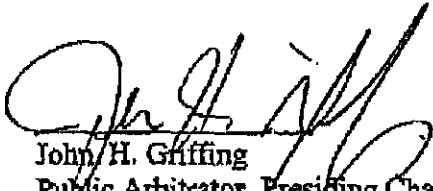
All balances are payable to NASD Dispute Resolution and are due upon receipt pursuant to Rule 10330(g) of the Code.

ARBITRATION PANEL

John H. Griffing	-	Public Arbitrator, Presiding Chairperson
John A. Baynes, III	-	Public Arbitrator, Panelist
Frank Samuel Perri, II.	-	Non-Public Arbitrator, Panelist

ARBITRATION PANEL

Concurring Arbitrators' Signatures


John H. Griffing
Public Arbitrator, Presiding Chairperson

4-15-05
Signature Date

John A. Baynes, III
Public Arbitrator, Panelist

Signature Date

Frank Samuel Perri, II
Non-Public Arbitrator, Panelist

Signature Date

April 15, 2005
Date of Service (For NASD Dispute Resolution office use only)

ARBITRATION PANEL

Concurring Arbitrators' Signatures

John H. Griffing
Public Arbitrator, Presiding Chairperson

Signature Date


John A. Baynes, III
Public Arbitrator, Panelist

4/14/05
Signature Date

Frank Samuel Perri, II
Non-Public Arbitrator, Panelist

Signature Date

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Public Arbitrator, Presiding Chairperson

Signature Date

John A. Baynes, III
Public Arbitrator, Panelist

Signature Date



Frank Samuel Perri, II
Non-Public Arbitrator, Panelist

3-18-05

Signature Date

April 15 2005

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