

Award
NASD Dispute Resolution

COPY

In the Matter of the Arbitration Between:

Blaine and Kim Thomas, Claimants v. Merrill Lynch, Pierce, Fenner & Smith, Inc. and Ryan Hancock, Respondents

Case Number: 03-04302

Hearing Site: Salt Lake City, Utah

Nature of the Dispute: Customers v. Member Firm and Associated Person

REPRESENTATION OF PARTIES

For Claimants:

Richard Hearn, Esq
Randy Budge, Esq.
Racine, Olson, Nye, Budge & Bailey
Pocatello, Idaho

For Respondents:

Kelly Callahan, Esq.
Tara LaClair, Esq.
Day Edwards Propester &
Christensen, PC
Oklahoma City, Oklahoma

CASE INFORMATION

Statement of Claim filed: June 12, 2003

Claimants' Joint Uniform Submission Agreement signed: June 12, 2003

Joint Statement of Answer by Respondents received: September 9, 2003

Respondent Merrill Lynch, Pierce, Fenner & Smith, Inc.'s Uniform Submission Agreement signed: July 16, 2003

Respondent Ryan Hancock's Uniform Submission Agreement signed: August 9, 2003

CASE SUMMARY

In their Statement of Claim, Claimants alleged breach of fiduciary duty, suitability, failure to supervise, unauthorized trading and breach of contract involving the purchase of unspecified securities.

Respondents denied the allegations of wrongdoing set forth in the Claimants' Statement of Claim.

RELIEF REQUESTED

Claimants requested compensatory damages in an amount between \$500,000.00 and \$1,000,000.00, pre-judgment interest and costs, including attorney's fees.

Respondents requested dismissal of the Claimants' Statement of Claim in its entirety, expungement of all reference to the above captioned arbitration from Respondent Ryan Hancock's registration records maintained by the NASD Central Registration Depository ("CRD"), and costs.

OTHER ISSUES CONSIDERED AND DECIDED

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

- 1) Respondents are jointly and severally liable to and shall pay Claimants compensatory damages in the sum of \$158,292.00.
- 2) Respondents are jointly and severally liable to and shall pay Claimants interest at a rate of 6% per annum on the sum of \$158,292.00 from April 1, 2001, until the Award is paid in full.
- 3) Respondents are jointly and severally liable to and shall pay Claimants costs in the sum of \$10,577.47
- 4) Respondents are jointly and severally liable to and shall pay Claimants the sum of \$75,980.16 in attorney's fees, pursuant to contract.
- 5) Except as noted above, the parties shall bear their respective costs, including attorney's fees.

6) All other relief requested and not expressly granted is denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Dispute Resolution received or will collect the non-refundable filing fees for each claim as follows:

Initial claim filing fee	= \$ 375.00
--------------------------	-------------

Member Fees

Member fees are assessed to each member firm that is either a party in the matter or an employer of a respondent associated person at the time of the events that gave rise to the dispute, claim, or controversy. Accordingly, the member firm Merrill Lynch, Pierce, Fenner & Smith, Inc. is a party and the following fees are assessed:

Member Surcharge	= \$ 2,250.00
Pre-Hearing Process Fee	= \$ 750.00
Hearing Process Fee	= \$ 4,000.00
Total Member Fees	= \$ 7,000.00

Forum Fees and Assessments

The Panel assessed a forum fee for each pre-hearing conference or hearing session conducted. A pre-hearing conference and hearing session is any meeting between the parties and the Chair or the parties and the Panel. The following fees are assessed:

(1) Pre-hearing conference session with the Panel @ \$1,200.00/session	= \$1,200.00
Pre-hearing conference: November 25, 2003	1 session

(8) Hearing sessions @ \$1,200.00/session	= \$9,600.00
Hearings: August 30, 2004	2 sessions
August 31, 2004	2 sessions
September 1, 2004	2 sessions
September 2, 2004	2 sessions

Total Forum Fees	= \$10,800.00
-------------------------	----------------------

The Panel assessed \$ 10,800.00 of the forum fees jointly and severally to Respondents.

Fee Summary

1. Claimants are charged jointly and severally with the following fees and costs:

Initial Filing Fee	= \$ 375.00
<u>Less payments</u>	<u>= \$(1,575.00)</u>
Refund Due Claimants	= \$(1,200.00)

2. Respondent, Merrill, Lynch, Pierce, Fenner & Smith, Inc., is charged with the following fees and costs:

Member Fees	= \$ 7,000.00
<u>Less payments</u>	<u>= \$(7,000.00)</u>
Balance Due NASD Dispute Resolution	= \$ 0.00

3. Respondents are charged jointly and severally with the following fees and costs:

<u>Forum Fees</u>	<u>= \$10,800.00</u>
Balance Due NASD Dispute Resolution	= \$10,800.00

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

ARBITRATION PANEL

Ross W. Cannon, Esq.
John G. Manley, Esq.
Gregory B. Wood

-
-
-

Public Arbitrator, Presiding Chair
Public Arbitrator
Non-Public Arbitrator

Concurring Arbitrators' Signatures

Ross W. Cannon, Esq.
Chair, Public Arbitrator

Signature Date


John G. Manley, Esq.
Public Arbitrator

9-8-04
Signature Date

Gregory B. Wood
Non-Public Arbitrator

Signature Date

9/8/04
Date of Service

ARBITRATION PANEL

Ross W. Cannon, Esq.
John G. Manley, Esq.
Gregory B. Wood

-
-
-

Public Arbitrator, Presiding C
Public Arbitrator
Non-Public Arbitrator

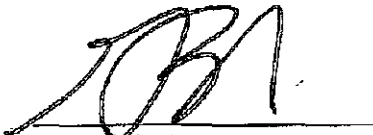
Concurring Arbitrators' Signatures

Ross W. Cannon, Esq.
Chair, Public Arbitrator

Signature Date

John G. Manley, Esq.
Public Arbitrator

Signature Date


Gregory B. Wood
Non-Public Arbitrator

9/8/2004
Signature Date

9/8/04
Date of Service

NASD Dispute Resolution
Arbitration No: 03-04302
Award Page 3 of 5


ARBITRATION PANEL

Ross W. Cannon, Esq.
John G. Manley, Esq.
Gregory B. Wood

-
-
-

Public Arbitrator, Presiding Chair
Public Arbitrator
Non-Public Arbitrator

Concurring Arbitrators' Signatures


Ross W. Cannon, Esq.
Chair, Public Arbitrator

9/9/04
Signature Date

John G. Manley, Esq.
Public Arbitrator

Signature Date

Gregory B. Wood
Non-Public Arbitrator

Signature Date

Date of Service