
Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Names of the Claimants

Ralph Goodman and Anni Goodman

Case Number: 03-04401

Name of the Respondent

Merrill Lynch, Pierce, Fenner & Smith, Inc.

Hearing Site: Boca Raton, Florida

Nature of the Dispute: Customer vs. Member.

REPRESENTATION OF PARTIES

For Ralph Goodman and Anni Goodman, hereinafter collectively referred to as "Claimants": Wm. Jemison Mims, Jr., Esq., Levin, Papantonio, Thomas, Mitchell, Echsner & Proctor, P.A., Pensacola, Florida.

For Merrill Lynch, Pierce, Fenner & Smith, Inc., hereinafter referred to as "Respondent": Keith Olin, Esq. and Coren H. Stern, Esq., Bressler, Amery & Ross, P.C., Miramar, Florida.

CASE INFORMATION

Statement of Claim filed on or about: June 17, 2003.

Claimants signed the Uniform Submission Agreement: March 24, 2003.

Statement of Answer filed by Respondent on or about: September 11, 2003.

Respondent signed the Uniform Submission Agreement: August 6, 2003.

CASE SUMMARY

Claimants asserted the following causes of action: breach of fiduciary duty; fraud; negligent misrepresentation; negligence; violation of Blue Sky Laws; and, violations of Section 10(b) of the Securities Exchange Act and Rule 10B-5 promulgated thereunder. The causes of action relate to the purchase and sale of shares of Aether System, Excite @home, GoTo.Com, InfoSpace, Internet Capital Group, Inc., Lifeminders, 24/7 Media and other unspecified technology stocks in Claimants' accounts.

Unless specifically admitted in its Answer, Respondent denied the allegations made in the Statement of Claim and asserted various defenses.

RELIEF REQUESTED

Claimants requested compensatory damages in the amount of \$135,297.70, punitive damages, interest, costs, attorney's fees and any other relief deemed just and proper.

Respondent requested that the Panel enter an award dismissing the Statement of Claim in its

entirety, assessing all forum fees against Claimants and any other relief deemed just and proper. In addition, Respondent asserted that it intended to seek attorneys' fees and costs from a court of competent jurisdiction pursuant to Sections 57.105 and 517.211(6) of the Florida Statutes.

OTHER ISSUES CONSIDERED AND DECIDED

The parties have agreed that the Award in this matter may be executed in counterpart copies.

AWARD

After considering the pleadings, 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:

Respondent is liable to Claimants on the claims of breach of fiduciary duty and negligence and shall pay to Claimants compensatory damages in the amount of \$54,097.00, prejudgment interest specifically excluded.

Any and all claims for relief not specifically addressed herein, including Claimants' requests for punitive damages and for damages pursuant to the Blue Sky Laws and Section 10(b) of the Securities Exchange Act and Rule 10B-5 promulgated thereunder, are denied.

FEES

Pursuant to the NASD Code of Arbitration Procedure (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
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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. In this matter, the member firm Merrill Lynch, Pierce, Fenner & Smith, Inc. is a party.

Member surcharge	= \$1,700.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$2,750.00

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

No requests for adjournments were filed in this matter.

Injunctive Relief Fees

Injunctive relief fees are assessed to each member or associated person who files for a temporary injunction in court. Parties in these cases are also assessed arbitrator travel expenses and costs

when an arbitrator is required to travel outside his or her hearing location and additional arbitrator honoraria for the hearing for permanent injunction. These fees, except the injunctive relief surcharge, are assessed equally against each party unless otherwise directed by the Panel.

No injunctive relief fees were incurred in this matter.

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:

Three (3) Pre-hearing sessions with a single arbitrator @ \$450.00	= \$1,350.00
Pre-hearing conferences:	
May 25, 2004	1 session
June 7, 2004	1 session
June 9, 2004	1 session
One (1) Pre-hearing session with the Panel @ \$1,125.00	= \$1,125.00
Pre-hearing conference:	
January 22, 2004	1 session
Six (6) Hearing sessions @ \$1,125.00	= \$6,750.00
Hearing Dates:	
July 27, 2004	2 sessions
July 28, 2004	2 sessions
July 29, 2004	2 sessions
Total Forum Fees	= \$9,225.00

The Panel has assessed \$4,612.50 of the forum fees jointly and severally to Claimants.
The Panel has assessed \$4,612.50 of the forum fees to Respondent.

Administrative Costs

Administrative costs are expenses incurred due to a request by a party for special services beyond the normal administrative services. These include, but are not limited to: additional copies of arbitrator awards; copies of audio transcripts; retrieval of documents from archives; interpreters; and, security.

No administrative costs were incurred in this matter.

Fee Summary

Claimants are jointly and severally liable for:

Initial Filing Fee	= \$ 300.00
Forum Fees	= \$ 4,612.50
Total Fees	= \$ 4,912.50
Less payments	= \$ 2,125.00
Balance Due NASD Dispute Resolution	= \$ 2,787.50

Respondent is solely liable for:

Member Fees	= \$ 5,200.00
Forum Fees	= \$ 4,612.50
Total Fees	= \$ 9,812.50
Less payments	= \$ 5,200.00
Balance Due NASD Dispute Resolution	= \$ 4,612.50

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

ARBITRATION PANEL

Leslie L. Cooney, Esq.	-	Public Arbitrator, Presiding Chairperson
Hon. Bernard J. Kune	-	Public Arbitrator
Heather D. Fitzenhagen, Esq.	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

/s/	08/02/04
_____ Leslie L. Cooney, Esq. Public Arbitrator, Presiding Chairperson	_____ Signature Date

/s/	07/30/04
_____ Heather D. Fitzenhagen, Esq. Non-Public Arbitrator	_____ Signature Date

Concurring in Part and Dissenting in Part Arbitrator's Signature

Arbitrator Kune agrees with the compensatory damage award herein. However, Arbitrator Kune would award interest to Claimants at the prevailing statutory rate from the accounts' inception at Merrill Lynch, Pierce, Fenner & Smith, Inc. in 1997 until the date of payment of the Award.

/s/	08/02/04
_____ Hon. Bernard J. Kune Public Arbitrator	_____ Signature Date

08/04/04

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

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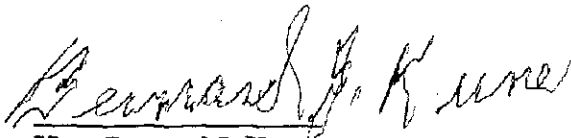
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Public Arbitrator



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Public Arbitrator, Presiding Chairperson

Signature Date



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Non-Public Arbitrator

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