

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Debra and James Knick, Gregory Peterson, James Knick and Shelby Knick, Claimants v. Merrill Lynch, Pierce, Fenner & Smith, Incorporated, Respondent

Case Number: 03-04494

Hearing Site: Portland, Oregon

Nature of the Dispute: Customers v. Member

REPRESENTATION OF PARTIES

For Claimants:

Tracy Pride Stoneman, Esq.
Tracy Pride Stoneman, P.C.
Westcliffe, Colorado

For Respondent:

Ben Suter, Esq.
Keesal, Young & Logan
San Francisco, California

CASE INFORMATION

Statement of Claim filed: June 19, 2003

Claimants' Joint Uniform Submission Agreement signed: June 10, 2003

Statement of Answer filed by Respondent: September 22, 2003

Respondent's Uniform Submission Agreement signed: August 22, 2003

CASE SUMMARY

In their Statement of Claim, Claimants alleged breach of contract, breach of fiduciary duty, unsuitability, common law fraud, misrepresentation and omission of facts, violation of state and federal securities laws and negligence. Claimants' allegations involved the purchase of Cisco Systems, Microsoft, AOL, Dell, Circuit City, Best Buy, LSI Logic, Sun Microsystems, and Xerox stock.

Respondent denied the allegations of wrongdoing set forth in the Claimants' Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

Claimants requested compensatory damages in the sum of \$875,000.00, pre-judgment interest, and costs, including attorney's fees.

Respondent requested dismissal of the Claimants' Statement of Claim in its entirety, and costs, including attorney's fees.

OTHER ISSUES CONSIDERED AND DECIDED

Claimant Shelby C. Knick did not appear at the hearing.

Prior to the start of the hearing, Claimants moved the Panel to Strike Portions of Respondent's Arbitration Brief. The Panel denied the motion.

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

- 1) Claimants' claims are denied in their entirety.
- 2) The parties shall bear their respective costs, including attorney's fees.
- 3) 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
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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, Incorporated is a party and the following fees are assessed:

Member Surcharge	= \$ 2,250.00
Pre-Hearing Process Fee	= \$ 750.00
<u>Hearing Process Fee</u>	<u>= \$ 4,000.00</u>
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: July 22, 2005 1 session	
(14) Hearing sessions @ \$1,200.00/session	= \$16,800.00
Hearings: February 7, 2005 2 sessions	
February 8, 2005 2 sessions	
February 9, 2005 2 sessions	
February 10, 2005 2 sessions	
February 11, 2005 3 sessions	
February 12, 2005 3 sessions	

Total Forum Fees	= \$ 18,000.00
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1. The Panel assessed \$9,000.00 of the forum fees jointly and severally to Claimants.
2. The Panel assessed \$9,000.00 of the forum fees to Respondent.

Fee Summary

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

Initial Filing Fee	= \$ 375.00
Forum Fees	= \$ 9,000.00
Total Fees	= \$ 9,375.00
Less payments	= \$(1,575.00)
Balance Due NASD Dispute Resolution	= \$ 7,800.00

2. Respondent is charged with the following fees and costs:

Member Fees	= \$ 7,000.00
Forum Fees	= \$ 9,000.00
Total Fees	= \$16,000.00
Less payments	= \$(7,000.00)
Balance Due NASD Dispute Resolution	= \$ 9,000.00

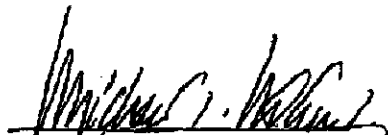
All balances are payable to NASD Dispute Resolution and are due upon the receipt of the Award pursuant to Rule 10330(g) of the Code.

ARBITRATION PANEL

Michael G. Hanlon, Esq.
Thomas P. Joseph, Jr., Esq.
Wendy L. Harris

- Public Arbitrator, Presiding Chair
- Public Arbitrator
- Non-Public Arbitrator

Concurring Arbitrators' Signatures



Michael G. Hanlon, Esq.
Chair, Public Arbitrator

3/15/05
Signature Date

Thomas P. Joseph, Jr., Esq.
Public Arbitrator

Signature Date

Wendy L. Harris
Non-Public Arbitrator

Signature Date

3/15/05
Date of Service

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Wendy L. Harris	-	Non-Public Arbitrator

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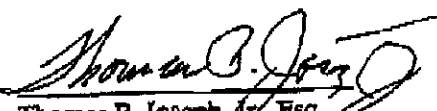
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Chair, Public Arbitrator

Signature Date



Thomas P. Joseph, Jr., Esq.
Public Arbitrator

3/29/05

Signature Date

Wendy L. Harris
Non-Public Arbitrator

Signature Date

Date of Service