

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

A.L. Bruner, Marilyn Bruner and B & C Housing, Inc., a California Limited Partnership,
Claimants v. Merrill Lynch, Pierce, Fenner & Smith, Inc., Respondent

Case Number: 03-04586

Hearing Site: Portland, Oregon

Nature of the Dispute: Customers v. Member

REPRESENTATION OF PARTIES

For Claimants:

Robert A. Graham, Jr., Esq.
The Law Offices of Robert A.
Graham, Jr.
Grants Pass, Oregon

For Respondent:

Mary T. Huser, Esq.
Bingham McCutchen LLP
East Palo Alto, California

CASE INFORMATION

Statement of Claim filed: June 24, 2003

Claimants' Joint Uniform Submission Agreement signed: July 8, 2003

Statement of Answer filed by Respondent: October 2, 2003

Respondent's Uniform Submission Agreement signed: August 1, 2003

CASE SUMMARY

In their Statement of Claim, Claimants alleged violation of section 10(b) of the Securities and Exchange Act, violation of ORS 59.115(1)(b) and ORS 59.135(2), fraud and deceit, misrepresentation, breach of fiduciary duty, unsuitability, and failure to disclose. Claimants' allegation involved the purchase of Global Crossing stock.

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

RELIEF REQUESTED

Claimants requested \$1,568,783.00, in compensatory damages, prejudgment interest, unspecified punitive damages, 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

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) 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	= \$ 500.00
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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, Inc. is a party and the following fees are assessed:

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

The following adjournment fees are assessed:

November 1-5, 2004, adjournment requested by Claimants	= \$ 1,200.00
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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:

(2) Pre-hearing conference sessions with the Panel @ \$1,200.00/session	= \$ 2,400.00
Pre-hearing conferences:	
December 8, 2003	1 session
March 1, 2005	1 session
(9) Hearing sessions @ \$1,200.00/session	= \$10,800.00
Hearings:	
March 14, 2005	2 sessions
March 15, 2005	2 sessions
March 16, 2005	2 sessions
March 17, 2005	2 sessions
March 18, 2005	1 session
Total Forum Fees	= \$13,200.00

1. The Panel assessed \$ 6,600.00 of the forum fees jointly and severally to Claimants.
2. The Panel assessed \$ 6,600.00 of the forum fees to Respondent.

Fee Summary

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

Initial Filing Fee	= \$ 500.00
Adjournment Fee	= \$ 1,200.00
<u>Forum Fees</u>	<u>= \$ 6,600.00</u>
Total Fees	= \$ 8,300.00
<u>Less payments</u>	<u>=(2,000.00)</u>
Balance Due NASD Dispute Resolution	= \$ 6,300.00

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

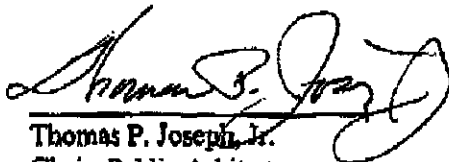
Member Fees	= \$ 8,550.00
<u>Forum Fees</u>	<u>= \$ 6,600.00</u>
Total Fees	= \$15,150.00
<u>Less payments</u>	<u>=(8,550.00)</u>
Balance Due NASD Dispute Resolution	= \$ 6,600.00

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

Thomas P. Joseph, Jr.	-	Public Arbitrator, Presiding Chair
Clyde Fahlman	-	Public Arbitrator
Dean K. Morell	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures


Thomas P. Joseph, Jr.
Chair, Public Arbitrator

3/29/05
Signature Date

Clyde Fahlman
Public Arbitrator

Signature Date

Dean K. Morell
Non-Public Arbitrator

Signature Date

3/29/05
Date of Service

ARBITRATION PANEL

Thomas P. Joseph, Jr.	-	Public Arbitrator, Presiding Chair
Clyde Fahlman	-	Public Arbitrator
Dean K. Morell	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

Thomas P. Joseph, Jr.
Chair, Public Arbitrator

Signature Date



Clyde Fahlman
Public Arbitrator

3-24-05

Signature Date

Dean K. Morell
Non-Public Arbitrator

Signature Date

3/29/05
Date of Service

ARBITRATION PANEL

Thomas P. Joseph, Jr.	-	Public Arbitrator, Presiding Chair
Clyde Fahlman	-	Public Arbitrator
Dean K. Morell	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

Thomas P. Joseph, Jr.
Chair, Public Arbitrator

Signature Date

Clyde Fahlman
Public Arbitrator

Signature Date



Dean K. Morell
Non-Public Arbitrator

3.23.05
Signature Date

3/29/05
Date of Service