

Stipulated Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Linda Dionisio and Paula Gillan (Claimants) v. Merrill Lynch, Pierce, Fenner & Smith Incorporated and Helen S. Hoffman (Respondents)

Case Number: 03-04619

Hearing Site: New York, New York

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

REPRESENTATION OF PARTIES

Claimants Linda Dionisio ("Dionisio") and Paula Gillan ("Gillan") hereinafter collectively referred to as "Claimants": Paul A. Wickesser, Esq., Paul A. Wickesser, Counselor at Law, Centerport, NY.

Respondents Merrill Lynch, Pierce, Fenner & Smith Inc. ("Merrill Lynch") and Helen S. Hoffman ("Hoffman") hereinafter collectively referred to as "Respondents": Stuart T. Rebish, Esq., previously Jonathan Wehle, Esq., Office of General Counsel, Merrill Lynch, Pierce, Fenner & Smith Inc., New York, NY.

CASE INFORMATION

Statement of Claim filed on or about: June 24, 2003.

Claimant Dionisio signed the Uniform Submission Agreement: June 20, 2003.

Claimant Gillan signed the Uniform Submission Agreement: June 20, 2003.

Joint Statement of Answer filed by Respondents on or about: August 20, 2003.

Respondent Merrill Lynch signed the Uniform Submission Agreement: September 4, 2003.

Respondent Hoffman signed the Uniform Submission Agreement: September 4, 2003.

CASE SUMMARY

Claimants asserted the following causes of action: Unsuitable investment recommendations and failure to diversify; breach of fiduciary duty and negligence; failure to supervise; and respondeat superior liability. Claimants' claim involved purchases of the common stock of ISCO, EMC Corp., McData CL A, LIS Logic, Nokia Corp., Cisco Systems, and Microsoft.

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

RELIEF REQUESTED

Claimants requested compensatory damages in the amount of \$26,500.00; compensatory damages in the amount of \$1,853.00, plus interest in the amount of \$4,082.00; costs; attorneys' fees; and such other and further relief that the Arbitrators deem appropriate under the circumstances.

Respondents requested dismissal of the Statement of Claim in its entirety, with prejudice, and that the Panel of Arbitrators award Respondents costs and such other and further relief as they deem just and proper, as well as expungement of all reference to the Statement of Claim and the allegations therein from Respondent Hoffman's Central Registration Depository ("CRD") record.

OTHER ISSUES CONSIDERED AND DECIDED

On or about July 26, 2004, NASD Dispute Resolution was notified that the parties settled this matter and requested the entry of this Stipulated Award.

AWARD

The parties entered into an agreement to present to the Panel a Stipulated Award. Now, in lieu of a hearing and upon motion of both parties for entry of an award, the written stipulation thereto, the Panel grants the motion and enters this award granting the following relief:

- 1) Claimants and Respondents have entered into a confidential settlement agreement.
- 2) All claims against the Respondents are dismissed with prejudice.
- 3) *The Panel recommends the expungement of all references to the above-captioned arbitration from Respondent Helen S. Hoffman's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to Notices to Members 99-09 and 99-54, Respondent Helen S. Hoffman must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.*
- 4) Each party shall bear its own costs and expenses associated with the arbitration, as determined by NASD.
- 4) Any and all relief not specifically addressed herein is denied.

FEES

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 = \$150.00

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 persons at the time of the events giving rise to the dispute. In this matter, Merrill Lynch, Pierce, Fenner & Smith, Inc. is a party.

Member Surcharge	= \$ 600.00
Pre-Hearing Process Fee	= \$ 750.00
<u>Hearing Process Fee</u>	<u>= \$1,000.00</u>
Total Member Fees	= \$2,350.00

Adjournment Fees

The following adjournment fees are assessed:

March 11-12, 2004, joint adjournment request	= \$450.00
Respondent Merrill Lynch's share	= \$450.00

Forum Fees and Assessments

The Panel assesses forum fees for each hearing session conducted. A hearing 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. Forum fees associated with these proceedings are:

Pre-hearing conference session with the sole arbitrator@ \$450.00/session	= \$450.00
<u>Pre-hearing conference: November 13, 2003 1 session</u>	<u></u>
Total Forum Fees	= \$450.00

1. The Panel has assessed \$450.00 of the forum fees jointly and severally against Respondents.

Fee Summary

1. Claimants are jointly and severally liable for:

<u>Initial Filing Fee</u>	<u>= \$ 150.00</u>
Total Fees	= \$ 150.00
<u>Less payments</u>	<u>= \$ 600.00</u>
Refund Due Claimants	= \$ 450.00

2. Respondent Merrill Lynch is solely liable for:


Member Fees	= \$2,350.00
<u>Adjournment Fee</u>	= \$ 450.00
Total Fees	= \$2,800.00
<u>Less payments</u>	= \$2,350.00
Balance Due NASD Dispute Resolution	= \$ 450.00

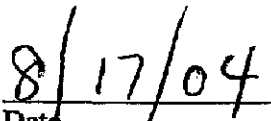
3. Respondents are jointly and severally liable for:


<u>Forum Fees</u>	= \$ 450.00
Total Fees	= \$ 450.00
<u>Less payments</u>	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 450.00


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

Parties' Signatures


Linda Dionisio
Claimant


Date


Paula Gillan
Claimant


Date

Merrill Lynch, Pierce, Fenner & Smith Inc.
Respondent

Date

Helen S. Hoffman
Respondent

Date

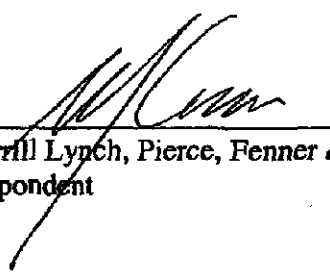
Parties' Signatures

Linda Dionosio
Claimant

Date

Paula Gillan
Claimant

Date



Merrill Lynch, Pierce, Fenner & Smith Inc.
Respondent

9/1/04

Date

Helen S. Hoffman
Respondent

Date

Parties' Signatures

Linda Dioniosio
Claimant

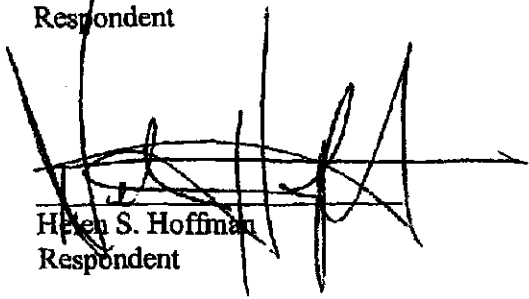
Date

Paula Gillan
Claimant

Date

Merrill Lynch, Pierce, Fenner & Smith Inc.
Respondent

Date



Helen S. Hoffman
Respondent

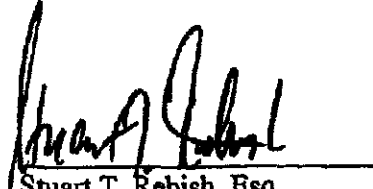
Date

8/31/04

Signatures of Parties' Attorneys



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ARBITRATION PANEL

Lowell D. Johnston, Esq.

Sole Public Arbitrator

Arbitrator's Signature

I, the undersigned arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument which is my award.


Lowell D. Johnston, Esq.
Public Arbitrator

8/9/05
Date

August 11, 2005
Date of Service (For NASD office use only)