

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Merrill Lynch, Pierce, Fenner & Smith, Inc. (Claimant) v. Prebon Financial Products, Inc. and CreditTrade Securities Corporation (Respondents)

Case Number: 03-04797

Hearing Site: New York, New York

Nature of the Dispute: Member v. Members.

REPRESENTATION OF PARTIES

Claimant Merrill Lynch, Pierce, Fenner & Smith, Inc. ("Merrill Lynch") hereinafter referred to as "Claimant": Martin Eisenberg, Esq., Emmet, Marvin & Martin, LLP, New York, NY.

Respondents Prebon Financial Products, Inc. ("Prebon") and CreditTrade Securities Corporation ("CreditTrade") hereinafter collectively referred to as "Respondents": Paul F. McCurdy, Esq., Kelley Drye & Warren, LLP, New York, NY.

CASE INFORMATION

Statement of Claim filed on or about: July 1, 2003.
Claimant did not sign the Uniform Submission Agreement.

Joint Statement of Answer filed by Respondents on or about: September 4, 2003.
Respondent Prebon signed the Uniform Submission Agreement: August 20, 2003.
Respondent CreditTrade signed the Uniform Submission Agreement.

CASE SUMMARY

Claimant asserted the following cause of action: failure to consummate and acknowledge a bond trade that Respondents agreed to sell and Claimant agreed to purchase.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

Claimant requested compensatory damages in the amount of \$256,000.00, plus interest, attorneys' fees, costs, and expenses.

Respondents requested that the Panel deny Claimant's requests for relief in their entirety, enter an award in Respondents' favor, including reasonable attorneys' fees and costs, along with such other relief as the Panel deems just, proper, and equitable.

OTHER ISSUES CONSIDERED AND DECIDED

Claimant did not file with NASD Dispute Resolution a properly executed Uniform Submission Agreement but is required to submit to arbitration pursuant to the Code and, having appeared and testified at the hearing, is bound by the determination of the Panel on all issues submitted.

Respondents made a motion to dismiss; the Claimant opposed the motion. After due consideration, the Panel determined the grant the motion.

The parties have 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, and 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:

1. The claims of Claimant are dismissed in their entirety.
2. 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	= \$1,000.00
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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 firms that employed the associated persons at the time of the events giving rise to the dispute. Accordingly, 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

Member fees are assessed to each member firm that is a party in these proceedings or to the member firms that employed the associated persons at the time of the events giving rise to the dispute. Accordingly, Prebon Financial Products, Inc. is a party.

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

Member fees are assessed to each member firm that is a party in these proceedings or to the member firms that employed the associated persons at the time of the events giving rise to the dispute. Accordingly, CreditTrade Securities Corporation is a party.

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

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:

One (1) Pre-hearing session with a single arbitrator @ \$450.00	= \$ 450.00
Pre-hearing conference: July 22, 2004 1 session	

One (1) Pre-hearing session with Panel @ \$1,125.00	= \$1,125.00
Pre-hearing conference: June 15, 2004 1 session	

Four (4) Hearing sessions @ \$1,125.00	= \$4,500.00
Hearing Dates: September 27, 2004 2 sessions	
September 28, 2004 2 sessions	

Total Forum Fees	= \$6,075.00
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1. The Panel has assessed \$3,037.50 of the forum fees against Claimant.
2. The Panel has assessed \$3,037.50 of the forum fees jointly and severally against Respondents.

Fee Summary

1. Claimant is solely liable for:

Initial Filing Fee	= \$1,000.00
Member Fees	= \$5,200.00
Forum Fees	= \$3,037.50
Total Fees	= \$9,237.50
<u>Less payments</u>	<u>= \$7,325.00</u>
Balance Due NASD Dispute Resolution	= \$1,912.50

2. Respondent Prebon is solely liable for:

<u>Member Fees</u>	= \$5,200.00
<u>Total Fees</u>	= \$5,200.00
<u>Less payments</u>	= \$5,200.00
Balance Due NASD Dispute Resolution	= \$ 0.00

3. Respondent CreditTrade is solely liable for:

<u>Member Fees</u>	= \$5,200.00
<u>Total Fees</u>	= \$5,200.00
<u>Less payments</u>	= \$5,200.00
Balance Due NASD Dispute Resolution	= \$ 0.00

4. Respondents are jointly and severally liable for:

<u>Forum Fees</u>	= \$3,037.50
<u>Total Fees</u>	= \$3,037.50
<u>Less payments</u>	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$3,037.50


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

ARBITRATION PANEL

Steven J. Petrie	-	Non-Public Arbitrator, Presiding Chairperson
Clifford A. Harwick	-	Non-Public Arbitrator
Stewart B. Winner	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

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 is which is my award.



Steven J. Petrie
Non-Public Arbitrator, Presiding Chairperson

9/29/04

Signature Date

Clifford A. Harwick
Non-Public Arbitrator

Signature Date

Stewart B. Winner
Non-Public Arbitrator

Signature Date

October 6, 2004

Date of Service (For NASD Dispute Resolution use only)

ARBITRATION PANEL

Steven J. Petrie	-	Non-Public Arbitrator, Presiding Chairperson
Clifford A. Harwick	-	Non-Public Arbitrator
Stewart E. Winner	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

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 in which is my award.

Steven J. Petrie
Non-Public Arbitrator, Presiding Chairperson

Signature Date



Clifford A. Harwick
Non-Public Arbitrator

10/4/04
Signature Date

Stewart E. Winner
Non-Public Arbitrator

Signature Date

October 6, 2004
Date of Service (For NASD Dispute Resolution use only)

ARBITRATION PANEL

Steven J. Petrie	-	Non-Public Arbitrator, Presiding Chairperson
Clifford A. Harwick	-	Non-Public Arbitrator
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Concurring Arbitrators' Signatures

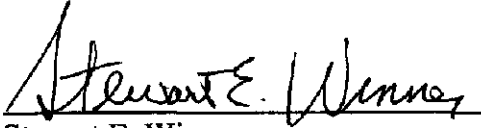
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Steven J. Petrie
Non-Public Arbitrator, Presiding Chairperson

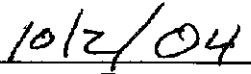
Signature Date

Clifford A. Harwick
Non-Public Arbitrator

Signature Date



Stewart E. Winner
Non-Public Arbitrator



Signature Date

October 6, 2004

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