

**STIPULATED AWARD
NASD Dispute Resolution**

In the Matter of the Arbitration Between

Claimants

Steve Dwyer and Barbara Dwyer

v.

03-05250

Denver, Colorado

Respondents

Merrill Lynch Pierce Fenner & Smith, Inc.
and James A. Betzig

Customers vs. Member and Associated Person

REPRESENTATION OF PARTIES

Steve Dwyer and Barbara Dwyer ("Claimants") were represented by Steve A. Miller, Esq., Denver, Colorado.

Merrill Lynch Pierce Fenner & Smith, Inc., ("Merrill Lynch") and James A. Betzig ("Betzig") hereinafter collectively referred to as "Respondents," were represented by Robert B. Baker, Esq., Bingham McCutchen, Boston, Massachusetts.

CASE INFORMATION

The Statement of Claim was filed on or about July 18, 2003. The Uniform Submission Agreements of Claimants were signed on or about July 16, 2003.

The Statement of Answer was filed jointly by Respondents on or about October 9, 2003. The Uniform Submission Agreement of Respondent, Merrill Lynch Pierce Fenner & Smith, Inc., was signed on or about July 30, 2003. The Uniform Submission Agreement of Respondent, James A. Betzig, was signed on or about July 30, 2003.

CASE SUMMARY

Claimants asserted causes of action including the following: fraud, breach of fiduciary duty, breach of duty of care, violation of Uniform Securities Act, C.R.S. 11-51-604(4), violation of NASD Conduct Rules 2110 and 2310, respondeat superior, and failure to supervise. The causes of action related to the recommendation and sale of unspecified securities, which Claimants alleged were not suitable to their needs. In addition, Claimants asserted that Respondents failed to employ reasonable risk management to protect account gains and minimize account losses during the market downturn beginning in March 2000.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted affirmative defenses including the following: Claimants failed to state a Claim upon which relief can be granted; Claimants' claims are barred by waiver, ratification, acquiescence and estoppel; Respondents were not the proximate cause of Claimants' alleged losses; Claimants' claims are barred, in whole or part, by the doctrine of contributory negligence or the doctrine of comparative fault; and Respondents deny that they engaged in any conduct in violation of applicable federal securities laws, state securities laws or any other principles of common law.

RELIEF REQUESTED

Claimants requested an award in the amount of:

Actual/Compensatory Damages	\$900,000.00
Attorney's Fees	Unspecified
Other Costs	Unspecified
Other Monetary Relief	Unspecified

Respondents requested that the claims asserted against them be denied in their entirety that they be awarded their costs and attorneys' fees and that the panel recommend that all references to this matter be expunged from the CRD records of James A. Betzig.

OTHER ISSUES CONSIDERED & DECIDED

Prior to the hearing, the parties fully and finally settled all claims between them. The parties have also asked for the panel to execute a Stipulated Award and hereby submit it for their consideration and request that it be entered.

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. In either case, the parties have agreed to receive conformed copies of the award while the original(s) remain on file with the NASD Dispute Resolution (the "NASD").

AWARD

After reviewing the parties' submissions and representations, but without making any findings of fact or conclusions of law, the undersigned arbitrators order as follows:

- 1.) Claimants' claims, having been withdrawn, are dismissed with prejudice;
- 2.) Other than Forum Fees, which are specified below, the parties, shall each bear their own costs and expenses incurred in this matter;

- 3.) The panel recommends the expungement of all reference to the above captioned arbitration from Respondent James A. Betzig's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 99-09, Respondent Betzig must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive; and
- 4.) Any relief not specifically enumerated, including punitive damages and attorney fees, is hereby dismissed with prejudice.

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 = \$ 375.00

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 person at the time of the events giving rise to the dispute. In this matter, the member firm is Merrill Lynch Pierce Fenner & Smith, Inc.

Member surcharge = \$ 2,250.00

Pre-hearing process fee = \$ 750.00

Hearing process fee = \$ 4,000.00

Three-Day Cancellation Fees

Fees apply when a hearing on the merits is postponed or settled within three business days before the start of a scheduled hearing session:

The Hearing Dates were scheduled on December 6, 2004-December 10, 2004. \$ 300.00

The parties advised NASD that this matter settled on December 3, 2004.

Forum Fees and Assessments

The Arbitration 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. Fees associated with these proceedings are:

One (1) Pre-hearing session with Panel x \$1,200.00 = \$ 1,200.00

Pre-hearing conference: February 19, 2004 1 session
Total Forum Fees = \$ 1,200.00

The panel has assessed \$ 600.00 of the forum fees jointly and severally to Steve Dwyer and Barbara Dwyer.

The panel has assessed \$ 600.00 of the forum fees jointly and severally to Merrill Lynch Pierce Fenner & Smith, Inc., and James A. Betzig.

Pursuant to NASD Code of Arbitration Procedure Rule 10332(f): Claimants' Hearing Session Deposit of \$ 600.00 is retained by NASD.

FEE SUMMARY

Claimants, Steve Dwyer and Barbara Dwyer, are jointly and severally liable for:

Initial Filing Fee	= \$ 375.00
Retention of Hearing Session Deposit Per Rule 10332 (f)	= \$ 600.00
Three-Day Cancellation Fee	= \$ 150.00
Forum Fees	= \$ 600.00
Total Fees	= \$ 1,725.00
Less payments	= \$ 1,725.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondent, Merrill Lynch Pierce Fenner & Smith, Inc., is liable for:

Member Fees	= \$ 7,000.00
Total Fees	= \$ 7,000.00
Less payments	= \$ 7,000.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondents, Merrill Lynch Pierce Fenner & Smith, Inc., and James A. Betzig, are jointly and severally liable for:

Three-Day Cancellation Fee	= \$ 150.00
Forum Fees	= \$ 600.00
Total Fees	= \$ 750.00
Less payments	= \$ 750.00
Balance Due NASD Dispute Resolution	= \$ 0.00

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

ARBITRATION PANEL

Lillian S. Lehrburger, Esq.- Public Arbitrator, Presiding Chair
Barbara A. Kozacik- Public Arbitrator
Roger T. Felthoven- Non-Public Arbitrator

Concurring Arbitrators:

Lillian S. Lehrburger, Esq.
Public Arbitrator, Presiding Chair

Signature Date

Barbara A. Kozacik
Public Arbitrator

Signature Date

Roger T. Felthoven
Non-Public Arbitrator


Signature Date

2/22/05
Date of Service (For NASD office use only)

ARBITRATION PANEL

Lillian S. Lehrburger, Esq. - Public Arbitrator, Presiding Chair
Barbara A. Kozacik - Public Arbitrator
Roger T. Felthoven - Non-Public Arbitrator

Concurring Arbitrators:


Lillian S. Lehrburger, Esq.
Public Arbitrator, Presiding Chair

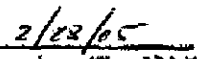

Signature Date

Barbara A. Kozacik
Public Arbitrator

Signature Date

Roger T. Felthoven
Non-Public Arbitrator

Signature Date


Date of Service (For NASD office use only)

ARBITRATION PANEL

Lillian S. Lehrburger, Esq.- Public Arbitrator, Presiding Chair
Barbara A. Kozacik- Public Arbitrator
Roger T. Felthoven- Non-Public Arbitrator

Concurring Arbitrators:

Lillian S. Lehrburger, Esq.
Public Arbitrator, Presiding Chair

Signature Date

Barbara A. Kozacik

Barbara A. Kozacik
Public Arbitrator

2/25/05

Signature Date

Roger T. Felthoven
Non-Public Arbitrator

Signature Date

2/22/05

Date of Service (For NASD office use only)

ARBITRATION PANEL

Lillian S. Lehrburger, Esq.- Public Arbitrator, Presiding Chair
Barbara A. Kozacik- Public Arbitrator
Roger T. Felthoven- Non-Public Arbitrator

Concurring Arbitrators:

Lillian S. Lehrburger, Esq.
Public Arbitrator, Presiding Chair

Signature Date

Barbara A. Kozacik
Public Arbitrator

Signature Date



Roger T. Felthoven
Non-Public Arbitrator

2-25-05

Signature Date

2/22/05

Date of Service (For NASD office use only)