

**Stipulated Award
NASD Dispute Resolution**

MARY K. ALLEN AND
VALTON E. ALLEN

Claimants,

vs.

KARL LINDEKUGEL, III and
MERRILL LYNCH, PIERCE FENNER
& SMITH, INCORPORATED,

Respondents.

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NASD Case No. 03-05402
LOCATION: DALLAS, TEXAS

NATURE OF THE DISPUTE

Public Customers v. Member Firm and Associated Persons

REPRESENTATION OF PARTIES

Claimants Mary K. Allen and Valton E. Allen, hereinafter referred to as "Claimants," were represented by Hardin R. Ramey, Esq., Blakeley & Ramey, 880 High Point Centre, 12225 Greenville Ave. @ LBJ, Dallas, Texas 75243.

Respondents Merrill Lynch, Pierce, Fenner & Smith Incorporated ("Merrill Lynch"), and Karl Lindekugel, III ("Lindekugel"), hereinafter collectively referred to as "Respondents", were represented by Bradley M. Gordon, Winstead Sechrest & Minick P.C., 5400 Renaissance Tower, 1201 Elm Street, Dallas, Texas 75270-2199.

CASE INFORMATION

The Claimants filed the Statement of Claim on or about July 21, 2003.

The Claimants signed the Uniform Submission Agreement on July 24, 2003.

The Respondents filed the Statement of Answer on or about September 30, 2003.

Respondent Merrill Lynch submitted a signed Uniform Submission Agreement on or about August 18, 2003.

Respondent Karl Lindekugel III submitted a signed Uniform Submission Agreement on or about September 3, 2003.

CASE SUMMARY

Claimants asserted the following causes of action: Breach of fiduciary duty, unsuitability, fraud, negligence and negligent supervision, breach of contract, and violations of the state and federal securities' laws and the Texas Deceptive Trade Practices Act.

Respondents denied the allegations made in the Statement of Claim and asserted the following defenses: Claimants failed to state a claim, Claimants failed to particularize facts or legal theories under which Respondents could be held liable, Claimants' claims are barred by all applicable statutes of limitations and/or statutes of repose, Claimants self-directed their accounts, Claimants directed, authorized, consented to, acquiesced and/or ratified all transactions in their accounts, Claimants' alleged losses were due to their own investment decisions and/or historical, market or economic conditions outside Respondents' control, Respondents acted properly and in good faith, Respondents made no guarantee to Claimants, Claimants contributed or caused the losses they suffered, Claimants' claims are barred by waiver and estoppel, Respondent Merrill Lynch was not negligent in the supervision of Claimants' accounts, Claimants failed to mitigate any alleged losses or damages, Claimants had full knowledge of their investments and appreciated any risks associated with those investments, and Claimants have "unclean hands".

RELIEF REQUESTED

In the Statement of Claim, Claimants requested:

Compensatory Damages	Amount not less than \$200,000
Punitive Damages	Unspecified
Attorneys fees/costs	Unspecified
Other Monetary/Non-Monetary Relief if any:	None

In their Answer, Respondents sought dismissal of Claimant's claims with prejudice, requested that Claimants take nothing, reimbursement of their attorneys' fees, expenses, and forum fees from Claimants, including refund of the member surcharge, and that this Complaint/Proceeding be expunged from Lindekugel's CRD record.

OTHER ISSUES CONSIDERED AND DECIDED

The Claimants and Merrill Lynch settled this dispute. Claimants have executed a General Release. As part of the consideration for the settlement, Claimants agreed not to oppose the expungement of this matter from Lindekugel's CRD record.

STIPULATED AWARD

Pursuant to the parties' agreement, the Arbitration Panel, without making any findings of fact or conclusions of law, has entered the following determination:

1. Claimants' claims against Respondents are dismissed with prejudice.

2. The Panel recommends the expungement of all reference to the above captioned complaint from Lindekugel's registration record maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notices to Members 99-09 and 99-54, Lindekugel must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

3. Any and all relief not specifically addressed herein is denied 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	= \$ 300.00
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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 firm that employed the associated persons at the time of the events giving rise to the dispute. Merrill Lynch is a member firm and a party and the following member fees are assessed:

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 arbitrator(s), including a pre-hearing conference with the arbitrator(s), that lasts four (4) hours or less. Fees associated with these proceedings are:

Initial pre-hearing conference (full panel):	= \$ 1,125.00
Pre-Hearing Conference Date: <u>March 31, 2004</u> <u>1 session</u>	
Total Forum Fees	= \$ 1,125.00

The Panel has determined that Claimants and Respondents shall each bear one half of the forum fees in the amount of \$562.50 to Claimants, and \$562.50 to Merrill Lynch and Lindekugel, jointly and severally. Pursuant to Rule 10332(f), the NASD shall retain the initial hearing session deposit of \$1,125.00 paid by the Claimants because of settlement occurred within eight business days of the first scheduled hearing session.

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

October 6-8, 2004 adjournment by Claimants = \$ 1,125.00
(Panel assessed equally to the parties)

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:

May 18-20, 2005 hearing settled May 13, 2005 = \$ 300.00
(Panel assessed equally to the parties)

EEE SUMMARY

Claimants Mary K. Allen and Valton E. Allen are liable for:

Initial Filing Fee	= \$ 300.00
Forum Fees/Rule 10332(f) forfeiture	= \$ 1,125.00
Adjournment Fee	= \$ 562.50
<u>3-Day Cancellation Fee</u>	<u>= \$ 150.00</u>
Total Fees	= \$ 2,137.50
<u>Less payments</u>	<u>= \$ 2,137.50</u>
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondent Merrill Lynch is solely liable for:

Member Fees	= \$ 5,200.00
<u>Less payments</u>	<u>= \$ 6,675.00</u>
Balance Refunded by NASD Dispute Resolution	= \$ 1,475.00

Respondents Merrill Lynch and Lindekugel are jointly and severally liable for:

Forum Fees	= \$ 562.50
Adjournment Fees	= \$ 562.50
<u>3-Day Cancellation Fee</u>	<u>= \$ 150.00</u>
Total Fees	= \$ 1,275.00
<u>Less payments</u>	<u>= \$ 1,275.00</u>
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.

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ARBITRATION PANEL

Phillip Lee Scheldt - Public Arbitrator, Chairperson
Steve Kimball - Public Arbitrator
William Madden - Industry Arbitrator

Concurring Arbitrators' Signatures

Phillip Lee Scheldt, Ph.D.
Public Arbitrator, Chairperson

Signature Date



K. Steve Kimball, CFA
Public Arbitrator

Signature Date

William B. Madden
Industry Arbitrator

Signature Date

8/23/05 Wm

Date of Service (For NASD Dispute Resolution use only)

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NASD Dispute Resolution, Inc.

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ARBITRATION PANEL

Phillip Lee Scheldt - Public Arbitrator, Chairperson
Steve Kimball - Public Arbitrator
William Madden - Industry Arbitrator

Concurring Arbitrators' Signatures

Phillip Lee Scheldt, Ph.D.
Public Arbitrator, Chairperson

Signature Date

K. Steve Kimball, CFA
Public Arbitrator

Signature Date

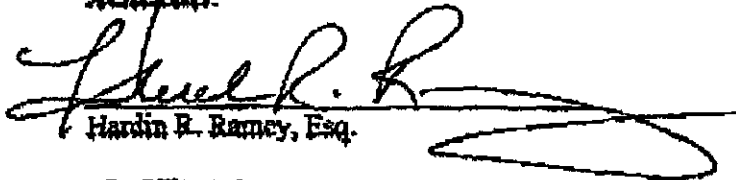
William B. Madden
William B. Madden
Industry Arbitrator

8-15-05
Signature Date

8/23/05 Wm
Date of Service (For NASD Dispute Resolution use only)

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AGREED:


Hardin R. Ramey, Esq.

BLAKELY & RAMEY

ATTORNEYS FOR CLAIMANTS


Bradley M. Gordon, Esq.

WINSTEAD SECHREST & MINICK, P.C.

ATTORNEYS FOR RESPONDENTS MERRILL LYNCH,
PIERCE, FENNER & SMITH INCORPORATED AND KARL LINDEKUGEL III