

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Mark Geisenberg IRA (Claimant) v. Merrill Lynch, Pierce, Fenner & Smith, Inc., The Grossman Group, and Jerome Grossman (Respondents)

Case Number: 03-05444

Hearing Site: New York, New York

Nature of the Dispute: Customer v. Member, Non-Member, and Associated Person.

REPRESENTATION OF PARTIES

Claimant Mark Geisenberg IRA ("Geisenberg") hereinafter referred to as "Claimant": Allen H. Weiss, Esq., Lake Success, NY.

Respondents Merrill Lynch, Pierce, Fenner & Smith, Inc. ("Merrill Lynch") and Jerome Grossman ("Grossman"): Dimitri Nemirovsky, Esq., Bingham McCutchen, LLP, New York, NY.

Respondent The Grossman Group ("The Grossman Group") did not make an appearance in this matter.

CASE INFORMATION

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

Claimant signed the Uniform Submission Agreement: July 21, 2003.

Joint Statement of Answer filed by Respondents Merrill Lynch and Grossman on or about: November 17, 2003.

Respondent Merrill Lynch signed the Uniform Submission Agreement: October 22, 2003.

Respondent Grossman signed the Uniform Submission Agreement: October 28, 2003.

CASE SUMMARY

Claimant asserted the following causes of action: breach of fiduciary duty; failure to supervise; misrepresentation; and omission of facts. The causes of action relate to common stock.

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

RELIEF REQUESTED

Claimant requested compensatory damages in the amount of \$60,000.00; punitive damages in the amount of \$35,000.00; attorneys' fees in the amount of \$25,000.00; costs; and other case-related costs.

Respondents Merrill Lynch and Grossman requested that the Panel dismiss the Statement of Claim in its entirety; that the Panel direct that the registration file of Respondent Grossman be expunged of any reference to this claim; and such other, further, and different relief as the Panel may deem appropriate.

OTHER ISSUES CONSIDERED AND DECIDED

Respondent The Grossman Group is not an NASD member and, therefore, was not required to arbitrate in this forum and did not submit to NASD Dispute Resolution's jurisdiction.

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, including punitive damages, 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 = \$225.00

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. Accordingly, Merrill Lynch, Pierce, Fenner & Smith, Inc. is a party.

Member surcharge = \$1,100.00
Pre-hearing process fee = \$ 750.00
Hearing process fee = \$1,700.00

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 Panel @ \$750.00 = \$ 750.00
Pre-hearing conferences: February 25, 2004 1 session

Six (6) Hearing sessions @ \$750.00 = \$4,500.00
Hearing Dates: October 4, 2004 2 sessions
October 5, 2004 2 sessions
October 6, 2004 2 sessions

Total Forum Fees = \$5,250.00

1. The Panel has assessed \$2,625.00 of the forum fees to Claimant.
2. The Panel has assessed \$2,625.00 of the forum fees to Respondent Merrill Lynch.

Fee Summary

1. Claimant is solely liable for:

Initial Filing Fee	= \$ 225.00
Forum Fees	= \$2,625.00
Total Fees	= \$2,850.00
Less payments	= \$ 975.00
Balance Due NASD Dispute Resolution	= \$1,875.00

2. Respondent Merrill Lynch is solely liable for:

Member Fees	= \$3,550.00
Forum Fees	= \$2,625.00
Total Fees	= \$6,175.00
Less payments	= \$3,550.00
Balance Due NASD Dispute Resolution	= \$2,625.00

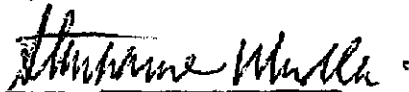
All balances are payable to NASD Dispute Resolution and are due upon receipt pursuant to Rule 10330(g) of the Code.

ARBITRATION PANEL

Stephanie Michelle Whidden	-	Public Arbitrator, Presiding Chairperson
Sanford S. Stevens, Esq.	-	Public Arbitrator
Court O. Anderson	-	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 which is my award.



Stephanie Michelle Whidden
Public Arbitrator, Presiding Chairperson

10/13/04
Signature Date

Sanford S. Stevens, Esq.
Public Arbitrator

Signature Date

Court O. Anderson
Non-Public Arbitrator

Signature Date

October 15, 2004
Date of Service (For NASD Dispute Resolution use only)

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Public Arbitrator, Presiding Chairperson



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Public Arbitrator

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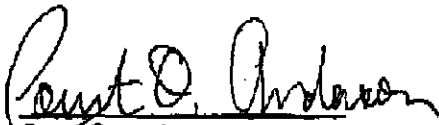
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Public Arbitrator, Presiding Chairperson

Signature Date

Sanford S. Stevens, Esq.
Public Arbitrator

Signature Date



Court O. Anderson
Non-Public Arbitrator

13 Oct 04

Signature Date

October 15, 2004
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