

Stipulated Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Robert A. Broyer, Claimant v. Merrill Lynch, Pierce, Fenner & Smith, Inc. and Renee D. Sopko,
Respondents

Case Number: 03-05522

Hearing Site: Reno, Nevada

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

REPRESENTATION OF PARTIES

For Claimant:

Richard J. Edson, Esq.
Law Offices of Richard J. Edson
Sacramento, California

For Respondents:

Stuart T. Rebish, Esq.
Merrill Lynch, Pierce, Fenner & Smith, Inc.
New York, New York

CASE INFORMATION

Statement of Claim filed: July 22, 2003

Claimant's Uniform Submission Agreement signed: June 20, 2003

Joint Statement of Answer filed by Respondents: September 29, 2003

Respondent Merrill Lynch, Pierce, Fenner & Smith, Inc.'s Uniform Submission Agreement
signed: October 3, 2003

Respondent Renee D. Sopko's Uniform Submission Agreement signed: September 29, 2003

CASE SUMMARY

Claimant alleged breach of contract, breach of fiduciary duty, unsuitable recommendations, omissions and misrepresentations, fraud, violations of federal laws, and intentional and/or negligent failure to supervise. Claimant's allegations concerned purchases of common stock in

Veritas Software Corp., PMC Sierra, Inc., Applied Micro Circuits Corp., and Network Appliance, Inc.

Respondents denied the allegations of wrongdoing set forth in the Claimant's Statement of Claim and raised various affirmative defenses.

RELIEF REQUESTED

Claimant requested actual damages in the amount of \$286,894.00, disgorgement of commissions, and costs, including attorney's fees.

Respondents requested dismissal of the Claimant's Statement of Claim in its entirety, as well as expungement of all reference to the Claim from Renee D. Sopko's Central Registration Depository (CRD) record.

OTHER ISSUES CONSIDERED AND DECIDED

The parties agreed that the Stipulated Award in this matter may be executed in counterpart copies or that a handwritten, signed Stipulated Award may be entered.

AWARD

After considering the pleadings and the Parties' request for this Stipulated Award, the Panel decided in full and final resolution of the issues submitted for determination as follows:

1. Claimant and Respondents have entered into a confidential settlement agreement.
2. All claims against Respondents are dismissed with prejudice.
3. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Renee D. Sopko's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 99-09, Respondent Renee D. Sopko 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.
5. 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 received or will collect the non-refundable filing fees for each claim as follows:

Initial claim filing fee	= \$ 300.00
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Member Fees

Member fees are assessed to each member firm that is either a party in the matter or an employer of a respondent associated person at the time of the events which gave rise to the dispute, claim, or controversy. Accordingly, the member firm Merrill Lynch, Pierce, Fenner & Smith, Inc. is a party and the following fees are assessed:

Member Surcharge	= \$ 1,700.00
Pre-Hearing Process Fee	= \$ 750.00
<u>Hearing Process Fee</u>	<u>= \$ 2,750.00</u>
Total Member Fees	= \$ 5,200.00

Forum Fees and Assessments

The Panel assessed a forum fee for each pre-hearing conference or hearing session conducted. A pre-hearing conference and hearing session is any meeting between the parties and the Panel. The following fees are assessed:

Two (2) pre-hearing conference sessions with the Panel @ \$1,125.00/session	= \$ 2,250.00
Pre-hearing conferences: December 16, 2003 1 session	
August 30, 2004 1 session	

Total Forum Fees	= \$ 2,250.00
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1. The Panel assessed \$562.50 of the forum fees to Claimant.
2. The Panel assessed \$1,687.50 of the forum fees jointly and severally to Respondents.

Fee Summary

1. Claimant is charged with the following fees and costs:

Initial Filing Fee	= \$ 300.00
Forum Fees	= \$ 562.50
<u>Hearing Session Deposit Retained Pursuant to Rule 10332(f)</u>	= \$ 562.50
Total Fees	= \$ 1,425.00
<u>Less payments</u>	= \$(1,425.00)
Balance Due NASD Dispute Resolution	= \$ 0.00

2. Respondent Merrill Lynch, Pierce, Fenner & Smith, Inc. is charged with the following fees and costs:

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

3. Respondents Merrill Lynch, Pierce, Fenner & Smith, Inc. and Renee D. Sopko are charged jointly and severally with the following fees and costs:


<u>Forum Fees</u>	= \$ 1,687.50
Balance Due NASD Dispute Resolution	= \$ 1,687.50

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

ARBITRATION PANEL

<i>Robert F. Saint-Aubin, Esq.</i>	-	<i>Public Arbitrator, Presiding Chair</i>
<i>Nancy E. Hochman, Esq.</i>	-	<i>Public Arbitrator</i>
<i>Richard C. Ramos</i>	-	<i>Non-Public Arbitrator</i>

Concurring Arbitrator's Signatures



Robert F. Saint-Aubin, Esq.
Chair, Public Arbitrator



Signature Date

Nancy E. Hochman, Esq.
Public Arbitrator

Signature Date

Richard C. Ramos
Non-Public Arbitrator

Signature Date



Date of Service


ARBITRATION PANEL

<i>Robert F. Saint-Aubin, Esq.</i>	-	<i>Public Arbitrator, Presiding Chair</i>
<i>Nancy E. Hochman, Esq.</i>	-	<i>Public Arbitrator</i>
<i>Richard C. Ramos</i>	-	<i>Non-Public Arbitrator</i>

Concurring Arbitrator's Signatures

Robert F. Saint-Aubin, Esq.
Chair, Public Arbitrator

Signature Date



Nancy E. Hochman, Esq.
Public Arbitrator

9/6/04

Signature Date

Richard C. Ramos
Non-Public Arbitrator

Signature Date

9/15/04

Date of Service

ARBITRATION PANEL

<i>Robert F. Saint-Aubin, Esq.</i>	-	<i>Public Arbitrator, Presiding Chair</i>
<i>Nancy E. Hochman, Esq.</i>	-	<i>Public Arbitrator</i>
<i>Richard C. Ramos</i>	-	<i>Non-Public Arbitrator</i>

Concurring Arbitrator's Signatures

Robert F. Saint-Aubin, Esq.
Chair, Public Arbitrator

Signature Date

Nancy E. Hochman, Esq.
Public Arbitrator

Signature Date


Richard C. Ramos
Non-Public Arbitrator

Sept. 10, 2004
Signature Date

9/15/04
Date of Service