

**STIPULATED AWARD
NASD Dispute Resolution**

In the Matter of the Arbitration Between

Name of Claimant

George M. McKay

and

Case Number: 03-05542
Hearing Site: Detroit, Michigan

Names of Respondents

Merrill Lynch Pierce Fenner & Smith Inc.,
and Janet Zaloga

NATURE OF CASE

Customer v. Member and Associated Person

REPRESENTATION OF PARTIES

George M. McKay ("Claimant") was represented by Gary M. Saretsky, Esq., Hertz, Schram & Saretsky, P.C., Bloomfield Hills, Michigan.

Merrill Lynch Pierce Fenner & Smith Inc. ("MLPFS") and Janet Zaloga ("Zaloga"), hereinafter referred to as "Respondents," were represented by Clarence L. Pozza, Esq., and W. Scott Turnbull, Esq., Miller, Canfield, Paddock and Stone, P.L.C., Detroit, Michigan.

CASE INFORMATION

The Statement of Claim was filed on or about July 31, 2003. The Submission Agreement of Claimant was signed on or about July 25, 2003.

The Statement of Answer was filed jointly by Respondents on or about October 21, 2003.

CASE SUMMARY

Claimant asserted the following causes of action: breach of contract; breach of fiduciary duty; fraud; negligence; conversion; and violation of state and federal securities laws. The causes of action related to Claimant's allegations that Respondents promoted and allowed speculative investment in unspecified securities with money borrowed through margin and pledged core holdings in disregard of Claimant's wishes for growth with a high degree of safety.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted defenses including the following: Claimant failure to mitigate damages; the Statement of Claim fails to state a claim upon which relief can be granted; and the Statement of Claim and all claims therein are barred by reason of the doctrines of waiver, estoppel, laches, and release.

RELIEF REQUESTED

Claimant requested an award in an unspecified amount (including lost opportunity costs, benefit of the bargain damages, commissions or other compensation conferred), plus costs, interest, attorneys' fees, and punitive/exemplary damages.

Respondents requested that the claims asserted against them be denied in their entirety, that they be awarded their costs and attorneys' fees, and that Respondent Zaloga's CRD record be expunged of all references to this matter.

OTHER ISSUES CONSIDERED & DECIDED

MLPFS and Zaloga did not file with the NASD Dispute Resolution properly executed submissions to arbitration but are required to submit to arbitration pursuant to Rule 10301 of the NASD Code of Arbitration Procedure (the "Code") and having answered the claim, and appeared and testified through counsel at the prehearing are bound by the determination of the arbitration panel on all issues submitted.

Claimant, having had an opportunity to review the records and documents produced in prehearing discovery and discuss the contents thereof with their counsel, stipulated and agree with Respondents to the expungement of all reference to the above-captioned arbitration from all registration records of Janet Mack Zaloga maintained by the NASD Central Registration Depository ("CRD").

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

- 1.) Claimant's 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 Janet Zaloga's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 99-09, Respondent Janet Zaloga 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 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 = \$ 250.00

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 = \$ 1,500.00
Pre-hearing process fee = \$ 750.00
Hearing process fee = \$ 2,200.00

Adjournment Fees

Adjournments requested during these proceedings:

October 26, 29, 2004, adjournment requested jointly (waived by panel) = \$ 1,000.00

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

One (1) Pre-hearing session with Panel x \$1,000.00 = \$ 1,000.00
Pre-hearing conference: April 29, 2004 1 session

Total Forum Fees = \$ 1,000.00

The Arbitration Panel has assessed \$500.00 of the forum fees to George M. McKay.

The Arbitration Panel has assessed \$500.00 of the forum fees jointly and severally to Merrill Lynch Pierce Fenner & Smith Inc., and Janet Zaloga.

FEE SUMMARY

Claimant, George M. McKay, is liable for:

Initial Filing Fee	= \$ 250.00
Forum Fees	= \$ 500.00
Total Fees	= \$ 750.00
Less payments	= \$ 1,250.00
Refund Due From NASD Dispute Resolution	= \$ 500.00

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

Member Fees	= \$ 4,450.00
Total Fees	= \$ 4,450.00
Less payments	= \$ 4,450.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondents, Merrill Lynch Pierce Fenner & Smith Inc., and Janet Zaloga, are jointly and severally liable for:

Forum Fees	= \$ 500.00
Total Fees	= \$ 500.00
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 500.00

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

ARBITRATION PANEL

Matthew W. Schlegel, Esq. - Public Arbitrator, Presiding Chair
Terrance J. Dorcy - Public Arbitrator
Anthony J. Bove, III - Non-Public Arbitrator

Concurring Arbitrators:

/s/ Matthew W. Schlegel, Esq.
Matthew W. Schlegel, Esq.
Public Arbitrator, Presiding Chair

01/13/05
Signature Date

/s/ Terrance J. Dorcy
Terrance J. Dorcy
Public Arbitrator

01/13/05
Signature Date

/s/ Anthony J. Bove, III
Anthony J. Bove, III
Non-Public Arbitrator

01/13/05
Signature Date

01/14/05
Date of Service (For NASD office use only)

NASD Dispute Resolution
Arbitration No. 03-05542
Stipulated Award Page 4 of 4

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NASD Dispute Resolution
 Arbitration No. 03-05842
 Stipulated Award Page 4 of 4

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Public Arbitrator

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1-13-2005

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