

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Stanley Feldman and Pick-A-Part, LLC (Claimants) v. Merrill Lynch, Pierce, Fenner & Smith, Inc. and Kenneth Neuman (Respondents)

Case Number: 03-05667

Hearing Site: New York, New York

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

REPRESENTATION OF PARTIES

Claimants Stanley Feldman ("Feldman") and Pick-A-Part, LLC ("Pick-A-Part") hereinafter collectively referred to as "Claimants": Mitchell H. Cobert, Esq., Morristown, NJ.

Respondents Merrill Lynch, Pierce, Fenner & Smith, Inc. ("Merrill Lynch") and Kenneth Neuman ("Neuman") hereinafter collectively referred to as "Respondents": John J. Murphy, III, Esq., Stradley Ronon Stevens & Young, LLP, Cherry Hill, NJ.

CASE INFORMATION

Statement of Claim filed on or about: August 1, 2003.

Claimants signed the Uniform Submission Agreement: July 25, 2003.

Joint Statement of Answer filed by Respondents on or about: October 16, 2003.

Respondent Merrill Lynch signed the Uniform Submission Agreement.

Respondent Neuman signed the Uniform Submission Agreement.

CASE SUMMARY

Claimants asserted the following causes of action: misrepresentation; breach of contract; breach of fiduciary duty; inappropriate trading; negligence; and failure to supervise. Claimants' claim involved various common stocks and bonds.

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

RELIEF REQUESTED

Claimants requested compensatory damages in the amount of \$728,857.00 for Feldman and compensatory damages in the amount of \$500,025.00 for Pick-A-Part; consequential

damages; interest; costs; attorneys' fees; punitive damages; and such other relief as the NASD may consider appropriate.

Respondents requested that the claims set forth in the Statement of Claim be denied in their entirety.

OTHER ISSUES CONSIDERED AND DECIDED

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. Respondent Merrill Lynch is liable for and shall pay Claimants compensatory damages in the amount of \$181,303.00, plus pre-judgment interest at the Treasury Bill rate prevailing at the relevant time periods from November 1, 2000 through the date of the award.
2. Respondent Merrill Lynch is liable for and shall pay to NASD Dispute Resolution \$500.00 for the filing fee.
3. 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	= \$500.00
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As stated in the "Award" section above, Respondent Merrill Lynch is liable for and shall pay to NASD Dispute Resolution the \$500.00 filing fee.

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	= \$2,800.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$5,000.00

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 @ \$1,200.00 = \$ 1,200.00

Pre-hearing conference: February 3, 2004 1 session

Eight (8) Hearing sessions @ \$1,200.00 = \$ 9,600.00

Hearing Dates:	July 15, 2004	2 sessions
	July 22, 2004	2 sessions
	July 23, 2004	2 sessions
	September 27, 2004	2 sessions

Total Forum Fees = \$10,800.00

1. The Panel has assessed \$10,800.00 of the forum fees against Respondent Merrill Lynch.

Fee Summary

1. Claimants are jointly and severally liable for:

Total Fees	= \$ 0.00
<u>Less payments</u>	= \$ 1,700.00
Refund Due Claimants	= \$ 1,700.00

2. Respondent Merrill Lynch is solely liable for:

Initial Filing Fee	= \$ 500.00
Member Fees	= \$ 8,550.00
<u>Forum Fees</u>	= \$10,800.00
Total Fees	= \$19,850.00
<u>Less payments</u>	= \$ 8,550.00
Balance Due NASD Dispute Resolution	= \$11,300.00

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

ARBITRATION PANEL

Martin L. Feinberg, Esq.	-	Public Arbitrator, Presiding Chairperson
Ted M. Rosen, Esq.	-	Public Arbitrator
Robert E. Holley	-	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 is which is my award.

Ted M. Rosen, Esq.
Public Arbitrator

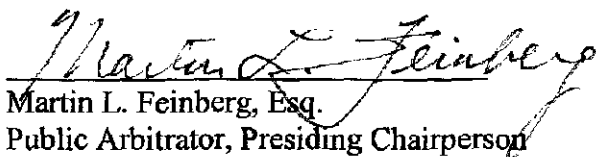
Signature Date

Robert E. Holley
Non-Public Arbitrator

Signature Date

Concurring in Part and Dissenting in Part Arbitrator's Signature

Arbitrator Feinberg respectfully dissents with respect to the liability of the registered representative. He otherwise concurs with the result.



Martin L. Feinberg, Esq.
Public Arbitrator, Presiding Chairperson

10/13/04

Signature Date

OCTOBER 27, 2004

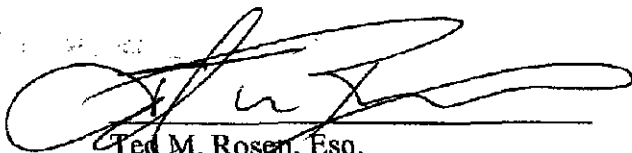
Date of Service (For NASD Dispute Resolution use only)

ARBITRATION PANEL

Martin L. Feinberg, Esq.	-	Public Arbitrator, Presiding Chairperson
Ted M. Rosen, Esq.	-	Public Arbitrator
Robert E. Holley	-	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 is which is my award.



Ted M. Rosen, Esq.
Public Arbitrator

10/25/04

Signature Date

Robert E. Holley
Non-Public Arbitrator

Signature Date

Concurring in Part and Dissenting in Part Arbitrator's Signature

Arbitrator Feinberg respectfully dissents with respect to the liability of the registered representative. He otherwise concurs with the result.

Martin L. Feinberg, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

OCTOBER 27, 2004

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ARBITRATION PANEL

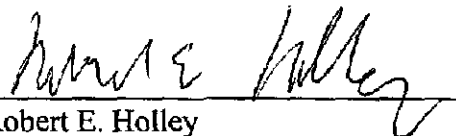
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Ted M. Rosen, Esq.
Public Arbitrator

Signature Date



Robert E. Holley
Non-Public Arbitrator

10 - 27 - 04

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Martin L. Feinberg, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

OCTOBER 27, 2004

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