

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Anita Mollot, Claimant v. Merrill Lynch, Pierce, Fenner & Smith Incorporated, Ralph R. Scott,
Paul N. Marcus, and Sy R. Lippman, Respondents

Case Number: 03-05944

Hearing Site: Los Angeles, California

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

REPRESENTATION OF PARTIES

For Claimant:

William S. Bonnheim, Esq.
William S. Bonnheim, PLC
Palm Desert, California

For Respondents:

John W. Cotton, Esq.
Cotton & Gundzik LLP
Los Angeles, California

CASE INFORMATION

Statement of Claim filed: August 13, 2003

Amended Statement of Claim filed: March 14, 2005

Claimant's Uniform Submission Agreement signed: August 7, 2003

Joint Statement of Answer to Statement of Claim filed by Respondents: February 3, 2004

Joint Statement of Answer to Amended Statement of Claim filed by Respondents: April 15, 2005

Respondent Merrill Lynch, Pierce, Fenner & Smith Incorporated's Uniform Submission
Agreement signed: December 18, 2004

Respondent Ralph R. Scott's Uniform Submission Agreement signed: February 19, 2004

Respondent Paul N. Marcus's Uniform Submission Agreement signed: February 19, 2004

Respondent Sy R. Lippman's Uniform Submission Agreement signed: February 19, 2004

CASE SUMMARY

In the Statement of Claim, Claimant alleged failure to supervise, unauthorized trading, fraud, negligence, and breach of fiduciary duty involving various securities including shares in Enron and Tyco.

In the Amended Statement of Claim, Claimant alleged breach of fiduciary duty, failure to supervise, violation of federal and state securities laws, and violation of NASD rules of fair practice and NYSE rules, involving unspecified securities.

Respondents denied the allegations of wrongdoing set forth in the Claimant's Statement of Claim and Amended Statement of Claim, and asserted a Statement of Defense and affirmative defenses.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested \$41,852.37 in compensatory damages, \$125,557.11 in punitive damages, and costs, including attorney's fees.

In the Amended Statement of Claim, Claimant requested \$1,162,697.07 in compensatory damages, profits generated from Claimant's account, prejudgment interest at the statutory rate, and costs, including attorney's fees and expert fees.

Respondents requested dismissal of the Claimant's Statement of Claim and Amended Statement of Claim in their entirety, expungement of the individuals named in this matter, and costs, including attorney's fees.

OTHER ISSUES CONSIDERED AND DECIDED

In the Initial Pre-Hearing Conference Scheduling Order, the Panel granted Claimant's motion to amend the Statement of Claim. On March 14, 2005, Claimant filed an Amended Statement of Claim pursuant to the NASD Code of Arbitration Procedure Rule 10328(b).

On November 12, 2004, Claimant and Claimant's counsel signed a Waiver Agreement expressly waiving any and all rights and benefits under California Civil Code Section 1542 and the California Ethical Standards for Neutral Arbitrators.

Pursuant to the Code of Arbitration Procedure IM-10100, the waiver of the Claimant shall constitute and operate as a waiver for all member firms and associated persons (including terminated or otherwise inactive member firms or associated persons) against whom the Claim has been filed.

On March 14, 2005, Claimant dismissed Respondents Ralph R. Scott, Paul N. Marcus, and Sy R. Lippman with prejudice.

On October 12, 2005, Claimant notified NASD Dispute Resolution that the parties had entered into a confidential settlement agreement. On October 17, 2005, Respondents notified NASD that the parties would request a Stipulated Award to be signed by the Arbitration Panel. On November 3, 2005, the parties notified NASD Dispute Resolution of their stipulation that the Panel recommend expungement of all reference to this matter from Respondents Ralph R. Scott, Paul N. Marcus, and Sy R. Lippman's registration records maintained by the NASD Central Registration Depository ("CRD"). On January 23, 2006, the Panel issued an Order stating the following:

The Panel declines, without prejudice, to execute the parties' proposed Stipulated Award. Should the parties wish to present supporting evidence, the Panel will consider declarations, if sufficient, or set a hearing if requested.

On February 16, 2006, Respondents filed a Joint Petition for Expungement with supporting declarations, requesting that the Panel recommend expungement of Respondents Ralph R. Scott, Paul N. Marcus, and Sy R. Lippman's CRD records. Claimant did not file a response to Respondents' petition.

The parties 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, the Panel decided in full and final resolution of the issues submitted for determination as follows:

1. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Paul N. Marcus' registration records maintained by the CRD, with the understanding that pursuant to NASD Notice to Members 99-09 and 99-54, Respondent Paul N. Marcus must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

2. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Sy R. Lippman's registration records maintained by the CRD, with the understanding that pursuant to NASD Notice to Members 99-09 and 99-54, Respondent Sy R. Lippman must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.
3. Respondent Ralph R. Scott's request for expungement is denied.
4. The parties shall bear their respective costs, including attorney's fees.
5. All other relief requested and not expressly granted 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	= \$ 500.00
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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 Incorporated is a party and the following fees are assessed:

Member Surcharge	= \$ 2,800.00
Pre-Hearing Process Fee	= \$ 750.00
<u>Hearing Process Fee</u>	<u>= \$ 5,000.00</u>
Total Member Fees	= \$ 8,550.00

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:

1 Pre-hearing conference session with the Panel @ \$1,200.00/session	= \$ 1,200.00
Pre-hearing conference: February 9, 2005 1 session	

Total Forum Fees	= \$ 1,200.00
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1. The Panel assessed \$600.00 of the forum fees to Claimant.
2. The Panel assessed \$600.00 of the forum fees jointly and severally to Respondents.

Administrative Costs

Administrative costs are expenses incurred because a party requested additional services beyond the normal administrative services. These additional services include, but are not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, security, and sundry other requests.

Claimant incurred administrative costs: = \$ 15.00

Fee Summary

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

Initial Filing Fee	= \$ 500.00
Forum Fees	= \$ 600.00
<u>Administrative Costs</u>	= \$ 15.00
Total Fees	= \$ 1,115.00
<u>Less payments</u>	= \$(1,115.00)
Balance Due NASD Dispute Resolution	= \$ 0.00

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

Member Fees	= \$ 8,550.00
<u>Less payments</u>	= \$(8,550.00)
Balance Due NASD Dispute Resolution	= \$ 0.00

3. Respondents are charged jointly and severally with the following fees and costs:

Forum Fees	= \$ 600.00
Less payments made by Respondent Merrill Lynch, Pierce, <u>Fenner & Smith Incorporated</u>	= \$(600.00)
Balance Due NASD Dispute Resolution	= \$ 0.00

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

Sandra L. Malek	-	Public Arbitrator, Presiding Chair
Michael Leymon Coffey	-	Public Arbitrator
Mark A. Levy	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

Sandra L. Malek
Chair, Public Arbitrator

Signature Date

Michael Leymon Coffey
Public Arbitrator

Signature Date

Mark A. Levy
Non-Public Arbitrator

Signature Date

Date of Service

ARBITRATION PANEL

Sandra L. Malek	-	Public Arbitrator, Presiding Chair
Michael Leymon Coffey	-	Public Arbitrator
Mark A. Levy	-	Non-Public Arbitrator

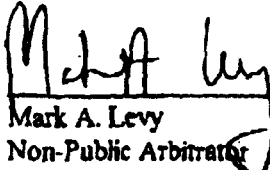
Concurring Arbitrators' Signatures

Sandra L. Malek
Chair, Public Arbitrator

Signature Date

Michael Leymon Coffey
Public Arbitrator

Signature Date


Mark A. Levy
Non-Public Arbitrator

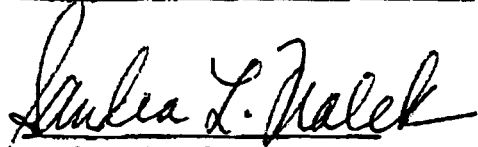
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Signature Date

4/26/06
Date of Service

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Michael Leymon Coffey	-	Public Arbitrator
Mark A. Levy	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures



Sandra L. Malek
Chair, Public Arbitrator

4/24/2006
Signature Date

Michael Leymon Coffey
Public Arbitrator

Signature Date

Mark A. Levy
Non-Public Arbitrator

Signature Date

4/26/06
Date of Service

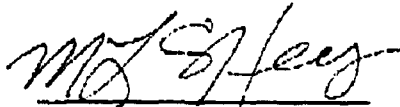
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Michael Leymon Coffey	-	Public Arbitrator
Mark A. Levy	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

Sandra L. Malek
Chair, Public Arbitrator

Signature Date



Michael Leymon Coffey
Public Arbitrator

04/30/2006

Signature Date

Mark A. Levy
Non-Public Arbitrator

Signature Date

5/10/06

Date of Service