

Stipulated Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Names of the Claimants

Karl E. Mattson
Mary P. Mattson

Case Number: 03-05960

Names of the Respondents

Merrill Lynch, Pierce, Fenner & Smith, Inc.
Peter J. Russo, Jr.

Hearing Site: Richmond, Virginia

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

REPRESENTATION OF PARTIES

Claimants, Karl E. Mattson and Mary P. Mattson, hereinafter collectively referred to as "Claimants", were represented by Wm. Jemison Mims, Jr., Esq., Levin, Papantonio, Thomas, Mitchell, Echsner & Proctor, P.A., Pensacola, Florida.

Respondents, Merrill Lynch, Pierce, Fenner & Smith, Inc. ("Merrill Lynch") and Peter J. Russo, Jr. ("Russo"), hereinafter collectively referred to as "Respondents", were represented by Terry R. Weiss, Esq., Sutherland, Asbill & Brennan LLP, Atlanta, Georgia.

CASE INFORMATION

Statement of Claim filed on August 11, 2003.

Claimant Karl E. Mattson signed the Uniform Submission Agreement on April 19, 2003.

Claimant Mary Patricia Mattson signed the Uniform Submission Agreement on April 19, 2003.

Statement of Answer filed by Respondents on November 7, 2003.

First Amended Statement of Answer file by Respondents on July 16, 2004.

Respondent Russo signed the Uniform Submission Agreement on November 5, 2003.

A representative of Respondent Merrill Lynch executed an undated Uniform Submission Agreement.

Respondents' Motion for Sanctions was filed on June 30, 2004.

Claimants' Response to Respondents' Motion for Sanctions was filed on July 19, 2004.

Respondents' Reply in Support of their Motion for Sanctions was filed on July 30, 2004.

Respondents' Motion to Dismiss was filed on June 30, 2004.

Claimants' Response to Respondents' Motion to Dismiss was filed on July 19, 2004.

Respondents' Reply in Support of their Motion for Dismiss was filed on July 30, 2004.

Respondents' Motion to Amend the Statement of Answer was filed on July 16, 2004.

CASE SUMMARY

Claimants asserted the following causes of action, among others: breach of fiduciary duty, fraud, negligent misrepresentation, negligence, and violation of blue-sky laws. The causes of action relate to the purchase and sale of stocks.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted the following defenses, among others: failure to state a cause of action upon which relief may be granted, laches, unclean hands, estoppel, waiver, ratification, contributory negligence, failure to use due care, assumption of risk, claims are barred by doctrine of set off, failure to mitigate damages, and claims are barred by applicable statute of limitations.

RELIEF REQUESTED

Claimants in their Statement of Claim requested:

Compensatory Damages	\$ 60,452.33
Punitive Damages	amount unspecified
Interest	amount unspecified
Attorneys' Fees	amount unspecified
Other Costs	amount unspecified

Respondents in their Statement of Answer requested that the Statement of Claim be dismissed in its entirety and that all costs of the arbitration be borne by Claimant.

OTHER ISSUES CONSIDERED AND DECIDED

By order dated August 6, 2004, the Panel denied Respondents' Motion for Sanctions and Respondents' Motion to Dismiss with leave granted to renew their motion at hearing. The Panel granted Respondents' Motion to File an Amended Statement of Answer.

A hearing was conducted on September 8, 9 and 10, 2004. Additional dates were set aside for a hearing to complete the matter. Prior to the rescheduled hearing, Respondent Merrill Lynch and Claimants reached a settlement. Respondent Russo was dismissed before the settlement and made no contribution to Claimants.

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

AWARD

On June 30, 2005, Claimants and Respondent Merrill Lynch reached a settlement of all their claims and have agreed to present to the Panel a Stipulated Award. Now, in lieu of a hearing and upon motion of Respondents for entry of an award and written stipulation thereto, the Panel hereby grants the motion and enters this award granted the following relief:

1. Claimants have dismissed their claims with prejudice;
2. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Russo's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notices to Members 99-09 and 99-54, Respondent Russo must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive;
3. The parties shall bear their respective costs, including attorneys' fees, except as Fees are specifically addressed below; and
4. Any and all relief not specifically addressed herein is denied in its entirety.

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
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Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firms that employed the associated person at the time of the events giving rise to the dispute. Accordingly, Respondent Merrill Lynch is a party.

Member surcharge	= \$ 1,100.00
Pre-hearing process fee	= \$ 750.00
<u>Hearing process fee</u>	<u>= \$ 1,700.00</u>
Total Member Fees	= \$ 3,550.00

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

October 5, 2004 – October 6, 2004, adjournment requested by Claimant = Waived

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:

Three (3) Pre-hearing sessions with a single arbitrator @ \$ 450.00	= \$ 1,350.00
Pre-hearing conferences:	
June 11, 2004	1 session
June 21, 2004	1 session
July 12, 2004	1 session

Three (3) Pre-hearing sessions with Panel @ \$ 750.00 = \$ 2,250.00

Pre-hearing conferences: April 8, 2004 1 session
 June 4, 2004 1 session
 August 5, 2004 1 session

Six (6) Hearing sessions @ \$ 750.00 = \$ 4,500.00

Hearing Dates: September 8, 2004 2 sessions
 September 9, 2004 2 sessions
 September 10, 2004 2 sessions

Total Forum Fees = \$ 8,100.00

1. The Panel has assessed \$ 4,275.00 of the forum fees to Claimants.
2. The Panel has assessed \$ 3,825.00 of the forum fees jointly and severally to Respondents.

Administrative Costs

Administrative costs are expenses incurred due to a request by a party for special services beyond the normal administrative services. These include, but not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

1. Merrill Lynch requested tape duplication. = \$ 105.00

FEE SUMMARY

1. Claimants are jointly and severally assessed and shall pay the following fees:

Initial Filing Fee	= \$ 225.00
Forum Fees	= \$ 4,275.00
Total Fees	= \$ 4,500.00
Less payments	= \$ 975.00
Balance Due NASD Dispute Resolution	= \$ 3,525.00

2. Respondent Merrill Lynch is assessed and shall pay the following fees:

Member Fees	= \$ 3,550.00
Administrative Costs	= \$ 105.00
Total Fees	= \$ 3,655.00
Less payments	= \$ 3,655.00
Balance Due NASD Dispute Resolution	= \$ 0.00

4. Respondents are jointly and severally assessed and shall pay the following fees:

Forum Fees	= \$ 3,825.00
Total Fees	= \$ 3,825.00
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 3,825.00

All balances are payable to NASD Dispute Resolution and are due upon receipt pursuant to Rule

10330(g) of the Code.

ARBITRATION PANEL

Stuart H. Dunn, Esq.
Stanley H. Ragle, Esq.
Edward R. Hipp, III

- Public Arbitrator, Presiding Chairperson
- Public Arbitrator, Panelist
- Non-Public Arbitrator, Panelist

Concurring Arbitrators' Signatures

Stuart H. Dunn, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

Stanley H. Ragle, Esq.
Public Arbitrator, Panelist

Signature Date

Edward R. Hipp, III
Non-Public Arbitrator, Panelist

Signature Date

Date of Service (For NASD Dispute Resolution office use only)

Concurring Arbitrators' Signatures

Stuart H. Dunn

Stuart H. Dunn, Esq.
Public Arbitrator, Presiding Chairperson

9-7-06

Signature Date

Stanley H. Ragle, Esq.
Public Arbitrator, Panelist

Signature Date

Edward R. Hipp, III
Non-Public Arbitrator, Panelist

Signature Date

September 28 2006
Date of Service (For NASD Dispute Resolution office use only)

Concurring Arbitrators' Signatures

Stuart H. Dunn, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

Stanley H. Ragle
Stanley H. Ragle, Esq.
Public Arbitrator, Panelist

September 6, 2006
Signature Date

Edward R. Hipp, III
Non-Public Arbitrator, Panelist

Signature Date

September 26, 2006
Date of Service (For NASD Dispute Resolution office use only)

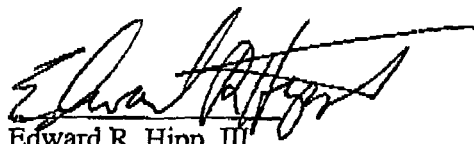
Concurring Arbitrators' Signatures

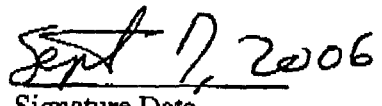
Stuart H. Dunn, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

Stanley H. Ragle, Esq.
Public Arbitrator, Panelist

Signature Date


Edward R. Hipp, III
Non-Public Arbitrator, Panelist


Signature Date

September 26, 2006
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