

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

RLR Management, LP, Claimant v. Goldman, Sachs and Co., Donaldson, Lufkin & Jenrette
Securities Corporation n/k/a Pershing LLC and James D. Garrity, Respondents

Case Number: 03-06109

Hearing Site: Los Angeles, California

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

REPRESENTATION OF PARTIES

For Claimant:

Jeff Dennis Ferentz, Esq.
Law Offices of Jeff Dennis Ferentz, Inc.
Newport Beach, California

Ronald Miller
Loss Recovery Center
Reno, Nevada

For Respondent Goldman, Sachs and Co.:

Elizabeth H. Lindh, Esq.
Keesal, Young & Logan
Long Beach, California

For Respondents Donaldson, Lufkin & Jenrette
Securities Corporation n/k/a Pershing LLC
(hereinafter referred to as DLJSC) and James D. Garrity:

Allan N. Taffet, Esq.
Duval & Stachenfeld LLP
New York, New York

CASE INFORMATION

Statement of Claim filed: August 20, 2003

Claimant's Uniform Submission Agreement signed: August 22, 2003

Statement of Answer filed by Respondent Goldman, Sachs and Co.: December 5, 2003

Joint Statement of Answer filed by Respondents DLJSC and James D. Garrity:
December 4, 2003

Respondent Goldman, Sachs and Co.'s Uniform Submission Agreement signed: January 28, 2004

Respondent DLJSC's Uniform Submission Agreement signed: February 9, 2004

Respondent James D. Garrity's Uniform Submission Agreement signed: February 12, 2004

CASE SUMMARY

In its Statement of Claim, Claimant alleged churning, unsuitability, constructive fraud, negligence, unauthorized trading, breach of fiduciary duty, and failure to supervise. Claimant's allegations involved transactions in unspecified securities and Motorola corporate bonds.

In its Statement of Answer, Respondent Goldman, Sachs and Co. denied the allegations of wrongdoing set forth in the Claimant's Statement of Claim and asserted various affirmative defenses.

In their Joint Statement of Answer, Respondents DLJSC and James D. Garrity denied the allegations of wrongdoing set forth in the Claimant's Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

Claimant requested \$900,000.00 in compensatory damages, disgorgement of commissions and other compensation, pre- and post-judgment interest, and costs, including attorney's fees.

Respondent Goldman, Sachs and Co. requested dismissal of the Claimant's Statement of Claim in its entirety and costs.

Respondents DLJSC and James D. Garrity requested dismissal of the Claimant's Statement of Claim in its entirety, that all reference to this arbitration be expunged from Respondent James D. Garrity's brokerage license, and costs, including attorneys' fees.

OTHER ISSUES CONSIDERED AND DECIDED

On January 13, 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.

By letter dated January 27, 2005, Claimant dismissed with prejudice Respondent Goldman, Sachs and Co.

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, testimony, and evidence presented at the hearing, the Panel decided in full and final resolution of the issues submitted for determination as follows:

- 1) Claimant's claims are denied in their entirety.
- 2) The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent James D. Garrity'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 James D. Garrity 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 attorney's fees.
- 4) All other relief requested and not expressly granted is denied.

FEES

Pursuant to the Code of Arbitration Procedure ("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	= \$ 375.00
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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 that gave rise to the dispute, claim, or controversy. Accordingly, the member firm Goldman, Sachs and Co. is a party and the following fees are assessed:

Member Surcharge	= \$ 2,250.00
Pre-Hearing Process Fee	= \$ 750.00
<u>Hearing Process Fee</u>	= \$ 4,000.00
Total Member Fees	= \$ 7,000.00

The member firm DLJSC is a party and the following fees are assessed:

Member Surcharge	= \$ 2,250.00
Pre-Hearing Process Fee	= \$ 750.00
<u>Hearing Process Fee</u>	= \$ 4,000.00
Total Member Fees	= \$ 7,000.00

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 Chair or the parties and the Panel. The following fees are assessed:

One (1) Pre-hearing conference session with a single arbitrator @ \$450.00/session	= \$ 450.00
Pre-hearing conference: November 8, 2004 1 session	
One (1) Pre-hearing conference session with the Panel @ \$1,200.00/session	= \$ 1,200.00
Pre-hearing conference: April 6, 2004 1 session	
Six (6) Hearing sessions @ \$1,200.00/session	= \$ 7,200.00
Hearings: February 15, 2005 2 sessions	
February 16, 2005 2 sessions	
February 17, 2005 2 sessions	
Total Forum Fees	= \$ 8,850.00

1. The Panel assessed \$4,425.00 of the forum fees to Claimant RLR Management, LP.
2. The Panel assessed \$4,425.00 of the forum fees jointly and severally to Respondents DLJSC and James D. Garrity.

Fee Summary

1. Claimant RLR Management, LP is charged with the following fees and costs:

Initial Filing Fee	= \$ 375.00
Forum Fees	= \$ 4,425.00
Total Fees	= \$ 4,800.00
Less payments	= \$ (1,700.00)
Balance Due NASD Dispute Resolution	= \$ 3,100.00

2. Respondent Goldman, Sachs and Co. is charged with the following fees and costs:

Member Fees	= \$ 7,000.00
Less payments	= \$ (7,000.00)
Balance Due NASD Dispute Resolution	= \$ 0.00

3. Respondent DLJSC is charged with the following fees and costs:

Member Fees	= \$ 7,000.00
Less payments	= \$ (7,000.00)
Balance Due NASD Dispute Resolution	= \$ 0.00

4. Respondents DLJSC and James D. Garrity are charged jointly and severally with the following fees and costs:

Forum Fees	= \$ 4,425.00
Less payments	= \$ (0.00)
Balance Due NASD Dispute Resolution	= \$ 4,425.00

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

Barbara M. Zak, Esq.	-	Public Arbitrator, Presiding Chair
Willard H. Altman, Jr.	-	Public Arbitrator
Robert P. Clifford	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

Barbara M. Zak
Barbara M. Zak, Esq.
Chair, Public Arbitrator

2-18-05
Signature Date

Willard H. Altman, Jr.
Willard H. Altman, Jr.
Public Arbitrator

Signature Date

Robert P. Clifford
Robert P. Clifford
Non-Public Arbitrator

Signature Date

2/18/05
Date of Service

ARBITRATION PANEL

Barbara M. Zak, Esq.	-	Public Arbitrator, Presiding Chair
Willard H. Altman, Jr.	-	Public Arbitrator
Robert P. Clifford	-	Non-Public Arbitrator


Concurring Arbitrators' Signatures

Barbara M. Zak, Esq.
Chair, Public Arbitrator

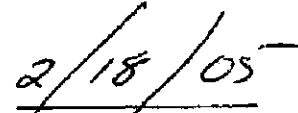
Signature Date

Willard H. Altman, Jr.
Public Arbitrator

Signature Date



Robert P. Clifford
Non-Public Arbitrator



Signature Date



Date of Service

ARBITRATION PANEL

Barbara M. Zak, Esq.	-	Public Arbitrator, Presiding Chair
Willard H. Altman, Jr.	-	Public Arbitrator
Robert P. Clifford	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

Barbara M. Zak, Esq.
Chair, Public Arbitrator

Signature Date

Willard H. Altman, Jr.
Willard H. Altman, Jr.
Public Arbitrator

FEBRUARY 19, 2005
Signature Date

Robert P. Clifford
Non-Public Arbitrator

Signature Date

Date of Service