

**STIPULATED AWARD
NASD Dispute Resolution**

In the Matter of the Arbitration Between

Names of Claimants

Albert A. Vannini and Lillian Vannini

and

Case Number: 03-06209
Hearing Site: Detroit, Michigan

Names of Respondents

Merrill Lynch Pierce Fenner & Smith, Inc.,
and John Oswald

NATURE OF DISPUTE

Customers v. Member and Associated Person

REPRESENTATION OF PARTIES

Albert A. Vannini and Lillian Vannini ("Claimants") was represented by John A. Hubbard, Esq., and Anthony Paesano, Esq., Beals Hubbard, PLC, Farmington Hills, Michigan.

Merrill Lynch Pierce Fenner & Smith, Inc. ("MLPFS") and John Oswald ("Oswald"), hereinafter referred to as Respondents, were represented by W. Scott Turnbull, Esq., and Jennifer Lossia McMannus, Esq., Miller Canfield Paddock and Stone, PLC.

CASE INFORMATION

The Statement of Claim was filed on or about August 27, 2003. The Submission Agreements of Claimants Albert A. Vannini and Lillian Vannini were signed on or about August 27, 2003, and June 11, 2004, respectively. Albert Vannini filed a First Amended Complaint (adding Lillian Vannini) on or about June 7, 2004.

The Statement of Answer was filed jointly by Respondents on or about October 22, 2003. The Submission Agreement of Merrill Lynch Pierce Fenner & Smith, Inc. was signed on or about September 10, 2003. The Submission Agreement of John Oswald was signed on or about October 28, 2003.

Respondents filed a Motion to Dismiss on or about October 22, 2003. Albert Vannini filed a Response to the Motion to Dismiss on or about November 24, 2003. Respondents filed a Reply in Support of their Motion to Dismiss on or about December 10, 2003.

CASE SUMMARY

Claimants asserted the following causes of action: common law fraud and misrepresentation; negligent misrepresentation; negligence *per se*; breach of fiduciary duties; negligence; and negligent supervision. The causes of action relate to the recommendation and purchase of various securities funds including Hartford Life, ML Internet Strategies and ML Global Tech Fund.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted legal and factual defenses to the claims.

RELIEF REQUESTED

Claimants requested an award in the amount of \$264,963.00 plus costs, attorneys' fees, and punitive and exemplary damages.

Respondents requested that the claims asserted against them be dismissed in their entirety that they be awarded their costs and attorneys' fees, and that this matter be expunged from Respondent Oswald's CRD records.

OTHER ISSUES CONSIDERED & DECIDED

In its Order entered on or about June 3, 2004, the panel conditionally granted Respondents' Motion to Dismiss, unless Lillian Vannini was added as a Claimant within 30 days.

Claimant, Albert A. Vannini, added Lillian Vannini as a Claimant and the Panel's conditional dismissal of Albert A. Vannini and Lillian Vannini was vacated pursuant to the Order of June 3, 2004.

Claimants, having had an opportunity to review the records and documents produced in pre-hearing discovery and discuss the contents thereof with their counsel, stipulated and agreed with Respondents to the expungement of all reference to the above-captioned matter from all registration records of John Oswald maintained by the NASD Central Registration Depository ("CRD").

Claimants understand and agree that the terms of the stipulated award, including the settlement amount and the details relating to the instant controversy shall remain non-public and confidential except as required by law or court order or in response to a request for information from any government or regulatory entity having jurisdiction over the matters giving rise to the claim and except as is necessary to be disclosed to persons engaged in the preparation and filing of federal, state or local tax returns. Claimants have agreed to withdraw and dismiss all claims in this matter against all Respondents with prejudice and without costs.

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 NASD Dispute Resolution ("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.) Claimants' 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 John Oswald's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 99-09, Respondent Oswald 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 dismissed 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 = \$ 300.00

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 = \$ 1,700.00
Pre-hearing process fee = \$ 750.00
Hearing process fee = \$ 2,750.00

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:

Two (2) Pre-hearing sessions with Panel x \$1,125.00	= \$ 2,250.00
Pre-hearing conferences: April 28, 2004	1 session
May 26, 2004	1 session
Total Forum Fees	= \$ 2,250.00

Pursuant to NASD Code of Arbitration Procedure Rule 10332(f), Claimants' Hearing Session Deposit of \$1,125.00 is retained by NASD.

The Arbitration Panel has assessed \$1,125.00 of the forum fees jointly and severally to Merrill Lynch Pierce Fenner & Smith, Inc., and John Oswald.

Fee Summary

Claimants, Albert A. Vannini and Lillian Vannini, are jointly and severally liable for:

Initial Filing Fee	= \$ 300.00
Forum Fees	= \$ 1,125.00
Total Fees	= \$ 1,425.00
Less payments	= \$ 1,425.00
Balance Due NASD Dispute Resolution	= \$ 0.00

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

Member Fees	= \$ 5,200.00
Total Fees	= \$ 5,200.00
Less payments	= \$ 5,200.00
Balance Due NASD Dispute Resolution	= \$ 0.00

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

Forum Fees	= \$ 1,125.00
Total Fees	= \$ 1,125.00
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 1,125.00

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

ARBITRATION PANEL

Richard Joseph Rankin, Esq. - Public Arbitrator, Presiding Chair
Patrick R. Sughrue, Esq. - Public Arbitrator
Nancy R. Papo - Non-Public Arbitrator

Concurring Arbitrators:

/s/ Richard Joseph Rankin, Esq.
Richard Joseph Rankin, Esq.
Public Arbitrator, Presiding Chair

03/16/05
Signature Date

/s/ Patrick R. Sughrue, Esq.
Patrick R. Sughrue, Esq.
Public Arbitrator

03/14/05
Signature Date

/s/ Nancy R. Papo
Nancy R. Papo
Non-Public Arbitrator

03/15/05
Signature Date

03/21/05
Date of Service (For NASD office use only)

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ARBITRATION PANEL

Richard Joseph Rankin, Esq. - Public Arbitrator, Presiding Chair
Patrick R. Sughrue, Esq. - Public Arbitrator
Nancy R. Papo - Non-Public Arbitrator

Concurring Arbitrators:

Richard Joseph Rankin, Esq.
Public Arbitrator, Presiding Chair

Signature Date


Patrick R. Sughrue, Esq.
Public Arbitrator

3-14-05
Signature Date

Nancy R. Papo
Non-Public Arbitrator

Signature Date

Date of Service (For NASD office use only)

NASD Dispute Resolution
Arbitration No. 03-05208
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ARBITRATION PANEL

Richard Joseph Rankin, Esq. - Public Arbitrator, Presiding Chair
Patrick H. Sughrue, Esq. - Public Arbitrator
Nancy R. Papo - Non-Public Arbitrator

Concurring Arbitrators:

Richard Joseph Rankin, Esq.
Public Arbitrator, Presiding Chair

Signature Date

Patrick H. Sughrue, Esq.
Public Arbitrator

Signature Date



Nancy R. Papo
Non-Public Arbitrator



Signature Date

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NASD Dispute Resolution
Arbitration No. 03-05209
Stipulated Award Page 5 of 5

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Patrick R. Sughrue, Esq. - Public Arbitrator
Nancy R. Papo - Non-Public Arbitrator

Concurring Arbitrators.



Richard Joseph Rankin, Esq.
Public Arbitrator, Presiding Chair

3-16-05

Signature Date

Patrick R. Sughrue, Esq.
Public Arbitrator

Signature Date

Nancy R. Papo
Non-Public Arbitrator

Signature Date

Date of Service (For NASD office use only)