
Stipulated Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Names of the Claimants

Anna Shalit and
Sol Shalit as Co-Trustees

Case Number: 03-06312

Names of the Respondents

Merrill Lynch, Pierce, Fenner & Smith, Inc.
D. Robert LaPorta
Gaetan Gagne

Hearing Site: Boca Raton, Florida

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

REPRESENTATION OF PARTIES

For Anna Shalit and Sol Shalit as Co-Trustees, hereinafter collectively referred to as "Claimants": James Richard Hooper, Esq. and Michael B. Lynch, Esq. of Hooper & Weiss, L.L.C., Orlando, Florida.

For Merrill Lynch, Pierce, Fenner & Smith, Inc. ("Merrill"), D. Robert LaPorta ("LaPorta") and Gaetan Gagne ("Gagne"), hereinafter collectively referred to as "Respondents": S. Lawrence Polk, Esq. and Samuel D. Almon, Esq., Sutherland, Asbill & Brennan, LLP, Atlanta, Georgia.

CASE INFORMATION

Statement of Claim filed on or about: September 9, 2003.

Claimants signed the Uniform Submission Agreement: June 6, 2003.

Statement of Answer filed by Respondents on or about: December 10, 2003.

Respondent Merrill signed the Uniform Submission Agreement: December 16, 2003.

Respondent LaPorta signed the Uniform Submission Agreement: November 26, 2003.

Respondent Gagne signed the Uniform Submission Agreement: November 26, 2003.

CASE SUMMARY

Claimants alleged the following causes of action: 1) unsuitability; 2) breach of contract 3) breach of fiduciary duty; 4) respondeat superior; 5) violation of NASD Rule 2110; 6) failure to supervise, 7) negligence; and, 8) omissions/misrepresentation. The causes of action relate to investments in shares of equity stock, including but not limited to, Qualcomm Inc., Siebel Systems Inc. and Southwest Airlines.

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

RELIEF REQUESTED

Claimants requested: 1) compensatory damages in the amount of \$105,595.00; 2) punitive damages; 3) attorneys' fees; 4) costs; and, 5) any other remedy the Panel deemed just and equitable.

Respondents requested: 1) dismissal of the Statement of Claim, in its entirety; 2) an order directing that the registration file of Gagne and LaPorta be expunged of any reference to this arbitration proceeding; 3) assessment of all forum fees and costs against Claimant; and, 4) such other, further and different relief as this Panel may deem just and proper.

OTHER ISSUES CONSIDERED AND DECIDED

On or about February 26, 2004, Claimants filed with NASD Dispute Resolution a Notice of Voluntary Dismissal as to Respondent LaPorta, with prejudice.

On or about February 21, 2005, Claimants filed with NASD Dispute Resolution a Notice of Voluntary Dismissal of Arbitration Claim as to Respondent Gagne, with prejudice.

On or about February 24, 2005, the parties filed with NASD Dispute Resolution a notice of settlement.

On or about April 12, 2005, the parties filed with NASD Dispute Resolution a proposed Stipulated Award for consideration by the Panel.

Prior to the hearing, the Parties fully and finally settled all claims by and between them. Therefore, the Parties submit this Stipulated Award to the Panel for its consideration and request that it be entered.

The parties have agreed that the Stipulated Award in this matter may be executed in counterpart copies.

AWARD

After considering the pleadings and the parties' proposed Stipulated Award, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. The parties have amenablely resolved their differences and have requested this Stipulated Award.
2. Claimants have dismissed their claims against Respondents Merrill, Gagne and LaPorta with prejudice, and request entry of this Stipulated Award.
3. The Panel recommends the expungement of all references to the above captioned arbitration from Respondent Gagne'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 Gagne must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

4. The parties shall bear their respective costs, including attorney's fees, except as fees are specifically addressed below.
5. Any and all relief not specifically addressed herein, including punitive damages, is denied in its entirety.

FEES

Pursuant to the NASD Code of Arbitration Procedure (the "Code"), the following fees are assessed:

Filing Fees

NASD will retain or collect the non-refundable filing fees for each claim:

Initial claim filing fee	= \$ 300.00
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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 firm that employed the associated person at the time of the events giving rise to the dispute. Accordingly, Respondent Merrill is a member firm and a party.

Member surcharge	= \$1,700.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$2,750.00
Total Member Fees	= \$5,200.00

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

There were no adjournments requested during these proceedings for which fees were assessed.

Three-Day Cancellation Fees

Fees apply when a hearing on the merits is postponed or settled within three business days before the start of a scheduled hearing session:

There were no three-day cancellation fees assessed during these proceedings.

Injunctive Relief Fees

Injunctive relief fees are assessed to each member or associated person who files for a temporary injunction in court. Parties in these cases are also assessed arbitrator travel expenses and costs when an arbitrator is required to travel outside his or her hearing location and additional arbitrator honoraria for the hearing for permanent injunction. These fees, except the injunctive relief surcharge, are assessed equally against each party unless otherwise directed by the panel.

There were no injunctive relief fees assessed during these proceedings.

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 @ \$1,125.00 per session = \$1,125.00
Pre-hearing conferences: February 23, 2004 1 session

Total Forum Fees = \$1,125.00

The Panel has assessed forum fees in the amount of \$562.50 to Claimants, jointly and severally.

The Panel has assessed forum fees in the amount of \$562.50 to Respondent Merrill.

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.

There were no administrative costs incurred during these proceedings.

Fee Summary

Claimants are jointly and severally liable for:

Initial Filing Fee	= \$ 300.00
<u>Forum Fees</u>	= \$ 562.50
Total Fees	= \$ 862.50
<u>Less payments</u>	= \$ 862.50
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondent Merrill is solely liable for:

Forum Fees	= \$ 562.50
<u>Member Fees</u>	= \$5,200.00
Total Fees	= \$5,762.50
<u>Less payments</u>	= \$5,200.00
Balance Due NASD Dispute Resolution	= \$ 562.50

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

ARBITRATION PANEL

Matthew V. Rigg, CFP, MIB	-	Public Arbitrator, Presiding Chairperson
Arthur C. Bivins, III	-	Public Arbitrator
Steven A. Hurst, CFP	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

Matthew V. Rigg, CFP, MIB
Public Arbitrator, Presiding Chairperson

Signature Date

/S/
Arthur C. Bivins, III
Public Arbitrator

Signature Date

/S/
Steven A. Hurst, CFP
Non-Public Arbitrator

Signature Date

June 2, 2005
Date of Service (For NASD Dispute Resolution office use only)

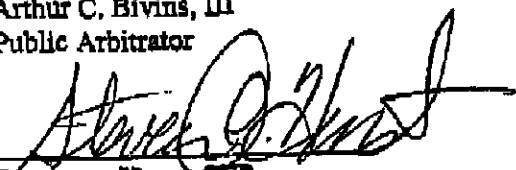
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Matthew V. Rigg, CFP, MIB
Public Arbitrator, Presiding Chairperson

Signature Date

Arthur C. Bivins, III
Public Arbitrator

Signature Date



Steven A. Hurst, CFP
Non-Public Arbitrator

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NASD Dispute Resolution

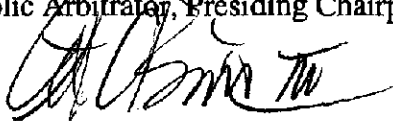
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Concurring Arbitrators' Signatures

Matthew V. Rigg, CFP, MIB

Public Arbitrator, Presiding Chairperson



Signature Date

4/26/05

Signature Date

Arthur C. Bivins, III

Public Arbitrator

Steven A. Hurst, CFP

Non-Public Arbitrator

Signature Date

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