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**Stipulated Award**  
**NASD Dispute Resolution**

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In the Matter of the Arbitration Between:

Names of the Claimants

Maxine A. Paulson &  
Sandra Adams as Co-Trustees

Case Number: 03-06313

Names of the Respondents

William M. Courtney, Jr.  
Merrill Lynch, Pierce, Fenner & Smith, Inc.

Hearing Site: Tampa, Florida

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

**REPRESENTATION OF PARTIES**

For Maxine A. Paulson ("Paulson") and Sandra Adams ("Adams") as Co-Trustees, hereinafter collectively referred to as "Claimants": James Richard Hooper, Esq. and William Young, Esq., Hooper & Weiss, LLC, Orlando, Florida.

For Merrill Lynch Pierce & Smith, Inc. ("Merrill Lynch") and William M. Courtney, Jr. ("Courtney"), hereinafter collectively referred to as "Respondents": S. Lawrence Polk, Esq. and Elena C. Parent, Esq., Sutherland Asbill & Brennan, LLP, Atlanta, Georgia.

**CASE INFORMATION**

Statement of Claim filed on or about: September 2, 2003.

Claimant Paulson signed the Uniform Submission Agreement: June 26, 2003.

Claimant Adams signed the Uniform Submission Agreement: June 28, 2003.

Statement of Answer filed by Respondents on or about: December 1, 2003.

Respondent Merrill Lynch signed the Uniform Submission Agreement: September 24, 2003.

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

**CASE SUMMARY**

Claimants alleged the following causes of action: unsuitability; failure to adequately supervise Courtney; breach of contract; breach of fiduciary duty; violation of Section 10(b) and Rule 10b-5 of the Securities Exchange Act of 1934; common law fraud; violation of SRO rules; negligence; and respondeat superior. The causes of action relate to the purchase in Claimants' account of various mutual funds and technology stocks, including but not limited to, Motorola, Lucent Technologies, Qwest Communications and SBC Communications.

Respondents contended that Claimant Adams directed the accounts and all trades at all times, and denied all allegations of wrongdoing.

### **RELIEF REQUESTED**

Claimants requested compensatory damages in the amount of \$250,316.28, disgorgement of all commissions, fees and other charges paid by Claimant to Respondents, punitive damages, interest, attorneys' fees, costs and expenses of these proceedings, and such other and further relief as the Panel deemed just and proper.

Respondents requested an award dismissing the Statement of Claim in its entirety, with prejudice, assessing all forum fees and costs against Claimants, directing that the NASD Central Registration Depository ("CRD") records of Respondent Courtney be expunged of any reference to this claim, awarding Respondents their reasonable attorneys' fees, and granting Respondents such other relief as the Panel deemed just and proper.

### **OTHER ISSUES CONSIDERED AND DECIDED**

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

On or about April 5, 2005, the parties filed with NASD Dispute Resolution a proposed Stipulated Award for review and approval by the Panel.

Claimants agreed to dismiss all claims against all Respondents pursuant to entry of this Stipulated Award. The parties have entered into a confidential settlement agreement pursuant to which the parties have agreed to dismiss this proceeding, and Claimants and Respondent Merrill Lynch jointly requested that reference to this proceeding be expunged from Respondent Courtney's NASD CRD records.

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

### **AWARD**

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

1. All claims against Respondents are hereby dismissed, with prejudice.
2. Each party shall bear its own costs, including forum fees and attorneys' fees.
3. All other relief not expressly granted is denied.
4. The Panel recommends the expungement of all references to the above captioned arbitration from Respondent Courtney's registration records maintained by the NASD CRD, with the understanding that pursuant to NASD Notices to Members 99-09 and 99-54, Respondent Courtney must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

**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

**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 Lynch is a member firm and a party.

Member surcharge	= \$1,700.00
Pre-hearing process fee	= \$ 750.00
<u>Hearing process fee</u>	<u>= \$2,750.00</u>
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 a single arbitrator @ \$450.00 per session	= \$ 450.00
Pre-hearing conference: August 20, 2004	1 session

One (1) Pre-hearing session with Panel @ \$1,125.00 per session = \$1,125.00  
Pre-hearing conference: April 16, 2004 1 session

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Total Forum Fees = \$1,575.00

The Panel has assessed forum fees in the amount of \$787.50 to Claimants, jointly and severally.  
The Panel has assessed forum fees in the amount of \$787.50 to Respondents, jointly and severally.

**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
Forum Fees	= \$ 787.50
Total Fees	= \$1,087.50
Less payments	= \$1,087.50
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondent Merrill Lynch is solely 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 are jointly and severally liable for:

Forum Fees	= \$ 787.50
Total Fees	= \$ 787.50
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 787.50

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

**ARBITRATION PANEL**

Frank Brenner, Esq.	-	Public Arbitrator, Presiding Chairperson
Robert W. Kneeland	-	Public Arbitrator
Clyde E. Renfroe, Jr.	-	Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

/s/  
Frank Brenner, Esq.  
Public Arbitrator, Presiding Chairperson

April 16, 2005  
Signature Date

/s/  
Robert W. Kneeland  
Public Arbitrator

April 21, 2005  
Signature Date

/s/  
Clyde E. Renfroe, Jr.  
Non-Public Arbitrator

April 18, 2005  
Signature Date

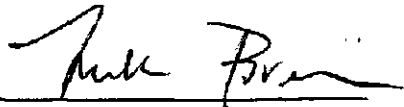
April 25, 2005  
Date of Service (For NASD Dispute Resolution office use only)

NASD Dispute Resolution

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**Concurring Arbitrators' Signatures**



Frank Brenner, Esq.  
Public Arbitrator, Presiding Chairperson

4-16-05

Signature Date

Robert W. Kneeland  
Public Arbitrator

Signature Date

Clyde E. Renfroe, Jr.  
Non-Public Arbitrator

Signature Date

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

NASD Dispute Resolution

Arbitration No. 03-06313

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**Concurring Arbitrators' Signatures**

APR 25 2005

**FL ARBITRATION**

\_\_\_\_\_  
Frank Brenner, Esq.

Public Arbitrator, Presiding Chairperson

\_\_\_\_\_  
Signature Date



Robert W. Kneeland

Public Arbitrator

4-21-05

\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Clyde E. Renfroe, Jr.

Non-Public Arbitrator

\_\_\_\_\_  
Signature Date

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

Concurring Arbitrators' Signatures

\_\_\_\_\_  
Frank Brenner, Esq.

Public Arbitrator, Presiding Chairperson

\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Robert W. Kneeland

Public Arbitrator

\_\_\_\_\_  
Signature Date

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*Clyde E. Renfro, Jr.*

Clyde E. Renfro, Jr.

Non-Public Arbitrator

\_\_\_\_\_  
*4-18-05*

Signature Date

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