
Stipulated Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimant

Lindsey J. Harman

Case Number: 03-06354

Names of the Respondents

Merrill Lynch, Pierce, Fenner & Smith, Inc.
Peter H. Silcox

Hearing Site: Boca Raton, Florida

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

REPRESENTATION OF PARTIES

For Lindsey J. Harman, hereinafter referred to as "Claimant": Robert Blanchard, Esq., Levin, Papantonio, Thomas, Mitchell, Echsner & Proctor, P.A., Pensacola, Florida.

For Merrill Lynch, Pierce, Fenner & Smith, Inc. ("Respondent MLPFS") and Peter H. Silcox ("Respondent Silcox"), hereinafter referred to as "Respondents": Alan M. Wolper, Esq., and Lawrence D. Ross, Esq., Sutherland Asbill & Brennan, LLP, Atlanta, Georgia.

CASE INFORMATION

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

Claimant signed the Uniform Submission Agreement: March 20, 2003.

Statement of Answer filed by Respondents on or about: December 15, 2003.

Respondent MLPFS signed but did not date the Uniform Submission Agreement.

Respondent Silcox signed but did not date the Uniform Submission Agreement.

CASE SUMMARY

Claimant asserted the following causes of action: breach of fiduciary duty; fraud; negligent misrepresentation; negligence; and, violation of Blue Sky Laws. The causes of action relate to the purchase and/or sale in Claimant's account of, among other things, the following common stocks and funds: Cisco Systems, Internet Capital Group, Merrill Lynch Focus Twenty, Tyco International and JDS Uniphase..

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

RELIEF REQUESTED

Claimant requested compensatory damages in the amount of \$113,320.93, unspecified punitive

damages, interest, costs, attorneys' fees and such other damages the Panel deemed appropriate.

Respondents requested dismissal of the Statement of Claim in its entirety, an order expunging Claimant's claims from Respondent Silcox's permanent registration record maintained by the NASD Central Registration Depository ("CRD"), costs, and such other, further and different relief as this Panel deemed just and proper.

OTHER ISSUES CONSIDERED AND DECIDED

On or about August 29, 2005, the parties filed with the NASD Dispute Resolution ("NASD") a Stipulation of Dismissal with Prejudice.

Claimant and Respondents have entered into a confidential settlement agreement. In connection with that settlement, Claimant has agreed to dismiss all her claims against Respondents with prejudice. Therefore, the parties submitted this Stipulated Award to the Panel for its consideration and request that it be entered.

The parties agree that the Stipulated Award in this matter may be executed in counterpart copies or that a handwritten signed Stipulated Award may be entered.

AWARD

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

Claimant's claims are hereby denied and dismissed, with prejudice.

The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Silcox's registration records maintained by the NASD CRD, with the understanding that pursuant to NASD Notices to Members 99-09 and 99-54, Respondent Silcox must obtain confirmation from a court of competent jurisdiction before the NASD CRD will execute the expungement directive.

Each party shall bear its own costs and expenses associated with this arbitration, including attorneys' fees, except as fees are specifically addressed below.

Any and all claims for relief not specifically addressed herein, including Claimant's request for punitive damages, are denied.

FEES

Pursuant to the NASD Code of Arbitration Procedure (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(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute. Accordingly, Respondent MLPFS 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:

No adjournment fees were incurred in this matter.

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:

No three-day cancellation fees were incurred in this matter.

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.

No injunctive relief fees were incurred in this matter.

Forum Fees and Assessments

The Panel has assessed forum fees for each session conducted. A 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 the Panel @ \$1,125.00/session	= \$2,250.00
Pre-hearing conferences: March 24, 2004 1 session	
July 8, 2004 1 session	

Total Forum Fees	= \$2,250.00
------------------	--------------

The Panel assessed forum fees of \$1,125.00 to Claimant.

The Panel assessed forum fees of \$1,125.00 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.

No administrative costs were incurred in this matter.

Fee Summary

Claimant is solely liable for:

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

Respondent MLPFS is solely liable for:

<u>Member Fees</u>	<u>= \$5,200.00</u>
Total Fees	= \$5,200.00
<u>Less payments</u>	<u>= \$4,150.00</u>
Balance Due NASD Dispute Resolution	= \$1,050.00

Respondents are jointly and severally liable for:

<u>Forum Fees</u>	<u>= \$1,125.00</u>
Total Fees	= \$1,125.00
<u>Less payments</u>	<u>= \$ 0.00</u>
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

Carmen A. Gross	-	Public Arbitrator, Presiding Chairperson
Gary M. Landau, Esq.	-	Public Arbitrator
Joel H. Holzer	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

/s/
Carmen A. Gross
Public Arbitrator, Presiding Chairperson

September 12, 2005
Signature Date

/s/
Gary M. Landau, Esq.
Public Arbitrator

September 9, 2005
Signature Date

Joel H. Holzer
Non-Public Arbitrator

Signature Date

September 20, 2005
Date of Service (For NASD Dispute Resolution office use only)

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.

No administrative costs were incurred in this matter.

Fee Summary

Claimant is solely 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 MLPFS is solely liable for:

Member Fees	= \$5,200.00
Total Fees	= \$5,200.00
Less payments	= \$4,150.00
Balance Due NASD Dispute Resolution	= \$1,050.00

Respondents are jointly and severally liable for:

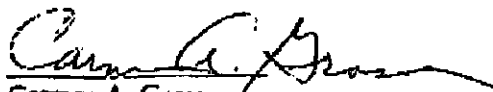
Forum Fees	= \$1,125.00
Total Fees	= \$1,125.00
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$1,125.00

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

ARBITRATION PANEL

Carmen A. Gross	-	Public Arbitrator, Presiding Chairperson
Gary M. Landau, Esq.	-	Public Arbitrator
Joel H. Holzer	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures


Carmen A. Gross
Public Arbitrator, Presiding Chairperson


Signature Date

Gary M. Landau, Esq.

Signature Date

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.

No administrative costs were incurred in this matter.

Fee Summary

Claimant is solely 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 MLPFS is solely liable for:

Member Fees	= \$5,200.00
Total Fees	= \$5,200.00
Less payments	= \$4,150.00
Balance Due NASD Dispute Resolution	= \$1,050.00

Respondents 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.

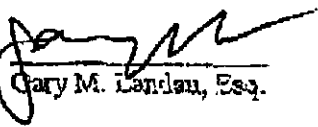
ARBITRATION PANEL

Carmen A. Gross	-	Public Arbitrator, Presiding Chairperson
Gary M. Landau, Esq.	-	Public Arbitrator
Joel H. Hoizer	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

Carmen A. Gross
Public Arbitrator, Presiding Chairperson

Signature Date


Gary M. Landau, Esq.

8/9/05
Signature Date