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

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In the Matter of the Arbitration Between:

Name of the Claimant  
Melba Jones

Case Number: 03-06401

Name of the Respondent  
Merrill Lynch, Pierce, Fenner & Smith, Inc.

Hearing Site: Little Rock, Arkansas

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Nature of the Dispute: Customer vs. Member.

**REPRESENTATION OF PARTIES**

For Melba Jones, hereinafter referred to as "Claimant": Donald L. Kneipp, Esq., Office of Donald L. Kneipp, Monroe, Louisiana.

For Merrill Lynch, Pierce, Fenner & Smith, Inc. ("MLPFS"), hereinafter referred to as "Respondent": George Freeman, Esq., Barrasso Usdin Kupperman Freeman & Sarver, L.L.C., New Orleans, Louisiana.

**CASE INFORMATION**

Statement of Claim filed on or about: September 4, 2003.

Claimant signed the Uniform Submission Agreement: September 2, 2003.

Statement of Answer filed by Respondent on or about: December 8, 2003.

Respondent signed the Uniform Submission Agreement: October 14, 2003.

**CASE SUMMARY**

Claimant asserted the following causes of action: 1) negligence; 2) breach of fiduciary duty; 3) unauthorized trading; and 4) violation of state and local securities laws. The causes of action relate to Respondent's alleged unauthorized transfers of Claimant's funds into an equity-based portfolio.

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

**RELIEF REQUESTED**

Claimant requested: 1) compensatory damages of at least \$132,136.00; 2) costs; and 3) for all just and equitable relief.

Respondent requested: 1) that the Statement of Claim be denied in all respects; 2) that all NASD fees and costs be assessed to Claimant; and 3) such other and further relief as deemed just and proper.

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

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

### **AWARD**

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

1. Claimant's claims are denied in their entirety.
2. Any and all claims for relief not specifically addressed above are denied, with prejudice.

### **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 party and a member firm.

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:

February 15 – 18, 2005, requested by Respondent	= \$1,125.00
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The Panel has assessed adjournment fees in the amount of \$1,125.00 to Respondent.

#### **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:

Three (3) Pre-hearing sessions with the Panel @ \$1,125.00/session = \$ 3,375.00

Pre-hearing conferences:      April 2, 2004              1 session  
   April 25, 2005              1 session  
   November 1, 2005              1 session

Six (6) Hearing sessions with the Panel @ \$1,125.00/session = \$ 6,750.00

Hearing Dates:              April 19, 2006              2 sessions  
   April 20, 2006              2 sessions  
   April 21, 2006              2 sessions

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Total Forum Fees = \$10,125.00

The Panel has assessed forum fees in the amount of \$10,125.00 to Claimant.

**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**

Claimant is solely liable for:

Initial Filing Fee	= \$ 300.00
<u>Forum Fees</u>	<u>= \$10,125.00</u>
Total Fees	= \$10,425.00
<u>Less payments</u>	<u>= \$ 1,425.00</u>
Balance Due NASD Dispute Resolution	= \$ 9,000.00

Respondent MLFPS is solely liable for:

Adjournment Fee	= \$ 1,125.00
<u>Member Fees</u>	<u>= \$ 5,200.00</u>
Total Fees	= \$ 6,325.00

<u>Less payments</u>	= \$ 6,325.00
Balance Due NASD Dispute Resolution	= \$ 0.00

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

**ARBITRATION PANEL**

<i>Steven R. Burkhead</i>	-	<i>Non-Public Arbitrator, Presiding Chairperson</i>
<i>Richard A. Stephens</i>	-	<i>Public Arbitrator</i>
<i>David Byron Bogard, Esq.</i>	-	<i>Public Arbitrator</i>

**Concurring Arbitrators' Signatures**

\_\_\_\_\_/s/\_\_\_\_\_  
Steven R. Burkhead  
Non - Public Arbitrator, Presiding Chairperson

4/25/06  
Signature Date

\_\_\_\_\_/s/\_\_\_\_\_  
Richard A. Stephens  
Public Arbitrator

4/25/06  
Signature Date

\_\_\_\_\_/s/\_\_\_\_\_  
David Byron Bogard, Esq.  
Public Arbitrator

4/25/06  
Signature Date

4/26/06  
Date of Service (For NASD Dispute Resolution office use only)

NASD Dispute Resolution

Arbitration No. 03-06401

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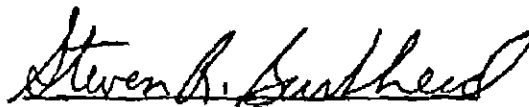
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4/25/06  
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Award Page 4

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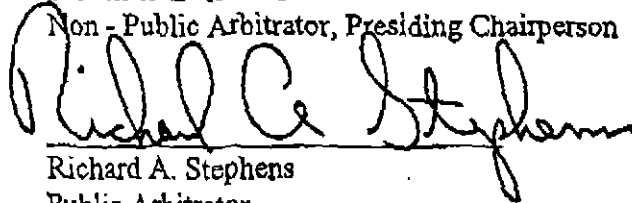
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Signature Date

04.25.06  
Signature Date

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