

**STIPULATED AWARD
NASD Dispute Resolution**

In the Matter of the Arbitration Between

Names of Claimants

Charlotte and Leigh Winslow

and

Case Number: 03-06424
Hearing Site: Houston, Texas

Names of Respondents

Merrill Lynch, Pierce, Fenner & Smith, Inc.,
David Harkins and
Ronnie McClellan

NATURE OF DISPUTE

Customers v. Member Firm and Associated Persons

REPRESENTATION OF PARTIES

Charlotte and Leigh Winslow ("**Claimants**") were represented by Daniel R. Kirshbaum, Esq., Axelrod, Smith & Kirshbaum, Houston, Texas.

Merrill Lynch, Pierce, Fenner & Smith, Inc. ("**Merrill Lynch**"), David S. Harkins ("**Harkins**"), and Ronnie C. McClellan ("**McClellan**"), were represented by Jack D. Ballard, Esq., The Ballard Law Firm, Houston, Texas.

CASE INFORMATION

The Statement of Claim was filed on or about September 5, 2003. The Uniform Submission Agreement of Claimants, Charlotte and Leigh Winslow, was signed on or about August 27, 2003.

The Statement of Answer was filed jointly by Respondents, Merrill Lynch, Pierce, Fenner & Smith, Inc., David S. Harkins and Ronnie C. McClellan, on or about November 7, 2003. The Uniform Submission Agreement of Respondent, Merrill Lynch, Pierce, Fenner & Smith, Inc., was signed on or about November 13, 2003. The Uniform Submission Agreements of Respondents, David Harkins and Ronnie McClellan, were signed on or about April 7, 2004.

CASE SUMMARY

Claimants asserted the following causes of action: breach of fiduciary duty, suitability, failure to supervise, misrepresentations and omission of facts. The causes of action related to investments held in Claimant's accounts at Merrill Lynch.

Respondents, Merrill Lynch, Pierce, Fenner & Smith, Inc., David Harkins and Ronnie McClellan, denied the allegations made in the Statement of Claim and asserted defenses including the following: to the extent Claimants incurred any damages, such damages were attributable to market conditions and/or Claimants' own negligence and not to any acts or omissions of Respondents; failure to state a claim; failure to mitigate and assumption of risk by Claimants.

RELIEF REQUESTED

Claimants requested an award in the amount of:

Actual/Compensatory Damages	\$110,000.00
Punitive/Exemplary Damages	Unspecified
Interest	Unspecified
Attorneys' Fees	Unspecified
Other Costs	Unspecified
Other Monetary Relief	Unspecified

Respondents requested that the claims asserted against them be denied in their entirety and that they be awarded their costs, attorneys' fees, and that all reference to this matter be expunged from the CRD records of David Harkins and Ronnie McClellan.

OTHER ISSUES CONSIDERED & DECIDED

Claimants and Respondents advised NASD that on or about March 24, 2005, they entered into an agreement to settle this matter on certain terms and conditions set forth in a confidential settlement agreement.

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 against Respondents, Merrill Lynch, Pierce, Fenner & Smith, Inc., David Harkins and Ronnie McClellan, are dismissed with prejudice;
- 2.) The panel recommends the expungement of all references to the above captioned arbitration from Respondent, David S. Harkin's, registration record maintained by NASD Central Depository ("CRD"), with the understanding that pursuant to NASD Notice to Member 99-09 and 99-54, Respondent, David S. Harkins, must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive;
- 3.) The panel recommends the expungement of all references to the above captioned arbitration from Respondent, Ronnie C. McClellan's, registration record maintained by NASD Central Depository ("CRD"), with the understanding that pursuant to NASD Notice to Member 99-09 and 99-54, Respondent, Ronnie C. McClellan, must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive;
- 4.) Other than Forum Fees which are specified below, the parties shall each bear their own costs and expenses incurred in this matter; and
- 5.) Any and all relief not specifically addressed herein, including attorneys' fees and costs is denied and all claims are 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 persons 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

Adjournment Fees

Adjournments granted during these proceedings:

December 7-10, 2004, adjournment requested by Claimants (waived by panel)	= \$1,125.00
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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 arbitrators, including a pre-hearing conference with the arbitrators, 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: March 18, 2004 1 session	
November 16, 2004 1 session	
<hr/> Total Forum Fees	<hr/> = \$2,250.00

The Arbitration Panel has assessed \$1,125.00 of the forum fees, jointly and severally, to Charlotte and Leigh Winslow.

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

Fee Summary

Claimants, Charlotte and Leigh Winslow, is liable for:

Initial Filing Fee	= \$ 300.00
Forum Fees	= \$ 1,125.00
<hr/> Total Fees	<hr/> = \$ 1,425.00
Less payments	= \$ 1,425.00
<hr/> Balance Due NASD Dispute Resolution	<hr/> = \$ 0

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

<u>Member Fees</u>	= \$ 5,200.00
<u>Total Fees</u>	= \$ 5,200.00
<u>Less payments</u>	= \$ 5,200.00
<u>Balance Due NASD Dispute Resolution</u>	= \$ 0

Respondents, Merrill Lynch, Pierce, Fenner & Smith, Inc., David Harkins and Ronnie McClellan, are jointly and severally liable for:

<u>Forum Fees</u>	= \$ 1,125.00
<u>Total Fees</u>	= \$ 1,125.00
<u>Less payments</u>	= \$.00
<u>Balance Due NASD Dispute Resolution</u>	= \$ 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

Sherry R. Wetsch, Esq. - Public Arbitrator, Presiding Chair
Charles C. Bailey - Public Arbitrator
Jonathan Rada - Non-Public Arbitrator

Concurring Arbitrators:

/s/ Sherry R. Wetsch, Esq.
Sherry R. Wetsch, Esq.
Public Arbitrator, Presiding Chair

July 12, 2005
Signature Date

/s/ Charles C. Bailey
Charles C. Bailey
Public Arbitrator

July 14, 2005
Signature Date

/s/ Jonathan Rada
Jonathan Rada
Non-Public Arbitrator

August 5, 2005
Signature Date

August 5, 2005
Date of Service (For NASD office use only)

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

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

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ARBITRATION PANEL

Sherry R. Wetsch, Esq. - Public Arbitrator, Presiding Chair
Charles C. Bailey - Public Arbitrator
Jonathan Rada - Non-Public Arbitrator

Concurring Arbitrators:



Sherry R. Wetsch, Esq.
Public Arbitrator, Presiding Chair

7-12-05

Signature Date

Charles C. Bailey
Public Arbitrator

Signature Date

Jonathan Rada
Non-Public Arbitrator

Signature Date

Date of Service (For NASD office use only)

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Charles C. Bailey - Public Arbitrator
Jonathan Rada - Non-Public Arbitrator

Concurring Arbitrators:

Sherry R. Wetsch, Esq.
Public Arbitrator, Presiding Chair

Signature Date

Charles C. Bailey
Charles C. Bailey
Public Arbitrator

7-14-05
Signature Date

Jonathan Rada
Non-Public Arbitrator

Signature Date

Date of Service (For NASD office use only)

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Charles C. Bailey - Public Arbitrator
Jonathan Rada - Non-Public Arbitrator

Concurring Arbitrators:

Sherry R. Wetsch, Esq.
Public Arbitrator, Presiding Chair

Signature Date

Charles C. Bailey
Public Arbitrator

Signature Date

Jonathan Rada
Non-Public Arbitrator

8/5/05
Signature Date