

Modified Stipulated Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Marian Kamath and Sharrel Kamath v. Joanne V. Graham and Merrill Lynch, Pierce, Fenner & Smith Inc.

Case Number: 03-08353

Hearing Site: New York, New York

Nature of Dispute: Customers v. Member and Associated Person

REPRESENTATION OF PARTIES

Claimants Marian Kamath ("M. Kamath") and Sharrel Kamath ("S. Kamath") hereinafter collectively referred to as "Claimants": Theodore M. Davis, Esq., Attorney At Law, Brooklyn, NY.

Respondents Merrill Lynch, Pierce, Fenner & Smith Incorporated ("Merrill Lynch") and Joanne Graham ("Graham") hereinafter collectively referred to as "Respondents": William J. Manning, Jr., Esq., Loeb & Loeb LLP, New York, NY.

CASE INFORMATION

Statement of Claim filed on or about: November 19, 2003.

Claimants signed the Uniform Submission Agreement: November 14, 2003.

Joint Statement of Answer filed by Respondents on or about: February 3, 2004.

Respondent Merrill Lynch signed the Uniform Submission Agreement: December 11, 2003.

Respondent Graham signed the Uniform Submission Agreement: January 7, 2004.

CASE SUMMARY

Claimants alleged that Respondents breached their alleged fiduciary duty, engaged in unsuitable trading, and engaged in self-dealing. Claimants' claim involved common stock.

Respondents denied all of the allegations of wrongdoing set forth in Claimants' Statement of Claim. Claimants were experienced investors and their accounts at Merrill Lynch were profitable.

RELIEF REQUESTED

Claimant requested compensatory damages of \$870,000.00, punitive damages, interest, costs, and other case-related costs.

Respondents requested dismissal with prejudice of Claimants' Statement of Claim, in its entirety, and that the Panel award Respondents attorneys' fees and costs. Respondents also requested expungement of this matter from Joanne Graham's CRD records maintained by the NASD.

OTHER ISSUES CONSIDERED AND DECIDED

Prior to the hearing, Respondent Joanne Graham was dismissed with prejudice by Claimant.

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

The parties entered into an agreement to present to the Panel a Stipulated Award. Now, in lieu of a hearing and upon motion of both parties for entry of an award, the written stipulation thereto, the Panel grants the motion and enters this award granting the following relief:

1. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Joanne V. Graham's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 99-09 and 99-54, Respondent Joanne V. Graham must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive;
2. Each party shall bear its own costs, including attorney's fees, except as Fees are specifically addressed below; and
3. Any and all relief not specifically addressed herein, including punitive damages, is denied in its entirety.

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 = \$375.00

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. Merrill Lynch, Pierce, Fenner & Smith Incorporated is a party.

Member surcharge = \$2,250.00
Pre-hearing process fee = \$ 750.00
Hearing process fee = \$4,000.00

Adjournment Fees

The following adjournment fees are assessed:

January 24-27, 2005, joint adjournment request = Waived

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 conference session with the Panel @ \$1,200.00/session = \$1,200.00
Pre-hearing conference: April 30, 2004 1 session
Total Forum Fees = \$1,200.00

1. The Panel has assessed \$600.00 of the forum fees jointly and severally against Claimants.
2. The Panel has assessed \$600.00 of the forum fees jointly and severally against Respondents.

Fee Summary

1. Claimants are jointly and severally liable for:

Initial Filing Fee = \$ 375.00
Forum Fees = \$ 600.00
Total Fees = \$ 975.00
Less payments = \$1,575.00
Balance Due NASD Dispute Resolution = \$ 600.00

2. Respondent Merrill Lynch is solely liable for:

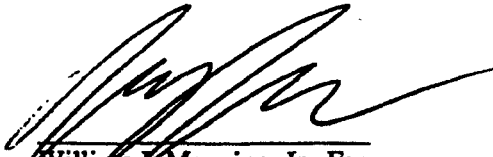
Member Fees = \$7,000.00
Total Fees = \$7,000.00
Less payments = \$7,000.00
Balance Due NASD Dispute Resolution = \$ 0.00

3. Respondents are jointly and severally liable for:

Forum Fees	= \$ 600.00
Total Fees	= \$ 600.00
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 600.00

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

Parties' Signatures



William F. Manning, Jr., Esq.
Loeb & Loeb
Attorney for Respondents

1/31/05
Signature Date

Theodore M. Davis, Esq.
Attorney At Law
Attorney for Claimants


Signature Date

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Parties' Signatures

William J. Manning, Jr., Esq.
Loeb & Loeb
Attorney for Respondents

Signature Date



Theodore M. Davis, Esq.
Attorney At Law
Attorney for Claimants

2/16/05

Signature Date

ARBITRATION PANEL

Howard L. Mandell, Esq.	-	Public Arbitrator, Presiding Chairperson
Julian F. Santos	-	Public Arbitrator
Doris C. Lindbergh, Esq.	-	Non-Public Arbitrator

I, the undersigned Arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument, which is my award.

Concurring Arbitrators' Signatures

Howard L. Mandell

Howard L. Mandell, Esq.
Public Arbitrator, Presiding Chairperson

10/24/06

Signature Date

Julian F. Santos
Public Arbitrator

Signature Date

Doris C. Lindbergh, Esq.
Non-Public Arbitrator

Signature Date

October 25, 2006

Date of Service (For NASD Dispute Resolution use only)

ARBITRATION PANEL

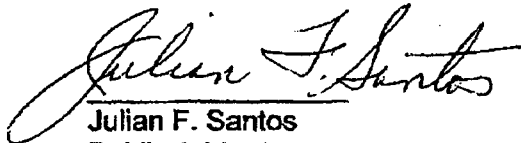
Howard L. Mandell, Esq.	-	Public Arbitrator, Presiding Chairperson
Julian F. Santos	-	Public Arbitrator
Doris C. Lindbergh, Esq.	-	Non-Public Arbitrator

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Concurring Arbitrators' Signatures

Howard L. Mandell, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date



Julian F. Santos
Public Arbitrator

10/3/06

Signature Date

Doris C. Lindbergh, Esq.
Non-Public Arbitrator

Signature Date

October 25, 2006

Date of Service (For NASD Dispute Resolution use only)