
Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Names of the Claimants
Rosa Concepcion Vaccaro
Gold Star Holdings, Ltd.
Albena Investments, Ltd.

Case Number: 03-08500

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

Hearing Site: Boca Raton, Florida

Nature of the Dispute: Customer vs. Member.

REPRESENTATION OF PARTIES

For Rosa Concepcion Vaccaro, Gold Star Holdings, Ltd., and Albena Investments, Ltd., hereinafter collectively referred to as "Claimants": Jorge A. Lopez, Esq., Jorge A. Lopez, P.A., Coral Gables, Florida, and William Xantopoulos, Esq., William Xantopoulos, P.A., Miami, Florida

For Merrill Lynch, Pierce, Fenner & Smith, Inc., hereinafter referred to as "Respondent": Alan M. Wolper, Esq., Sutherland Asbill & Brennan, LLP, Atlanta, Georgia.

CASE INFORMATION

Statement of Claim filed on or about: December 1, 2003.

Claimants signed the Uniform Submission Agreement: November 12, 2003.

Statement of Answer filed by Respondent on or about: February 20, 2004.

Respondent signed the Uniform Submission Agreement: January 28, 2004.

Respondent's Motion to Dismiss Count 1 of the Statement of Claim filed on or about: April 1, 2005.

Response to Motion to Dismiss Count 1 of the Statement of Claim filed by Claimants on or about: April 19, 2005.

Reply in Support of Motion to Dismiss Count 1 of the Statement of Claim filed by Respondent on or about: April 25, 2005.

Supplement to Respondent's Motion to Dismiss Count 1 of the Statement of Claim filed by Respondent on or about: May 6, 2005.

CASE SUMMARY

Claimants asserted the following causes of action: violation of the Florida Securities and Investor Protection Act; breach of fiduciary duty; negligence; negligent failure to supervise and, common law fraud. The causes of action relate to the purchase of various unspecified technology and telecommunications securities in Claimants' accounts, including Yahoo and Claimants' investment in the Merrill Lynch Internet Strategies Fund.

Unless specifically admitted in its Answer, Respondent denied the allegations made in the Statement of Claim and asserted various defenses. In addition, Respondent asserted a Motion to Dismiss Count 1 of the Statement of Claim as time barred.

RELIEF REQUESTED

Claimants requested compensatory damages in an amount in excess of \$4,393,656.00, plus prejudgment interest at the Florida statutory legal rate, disgorgement of all commissions, margin interest and fees, punitive damages in the amount of \$4,393,656.00, an express finding permitting Claimants to recover attorneys' fees and costs, including expert witness fees, post- award interest on the total amount of award, and for such other and further relief as deemed just and proper by the Panel.

Respondent requested that Claimants' claims be dismissed in their entirety, all forum costs be assessed against Claimants and for such other and further relief as the Panel deemed fit and appropriate.

OTHER ISSUES CONSIDERED AND DECIDED

On or about May 10, 2005, the Panel issued an Order that granted Respondent's Motion to Dismiss Count 1 of the Statement of Claim.

During the evidentiary hearing on October 17, 2006, Respondents made an ore tenus motion for a directed verdict/motion to dismiss which was granted by the Panel.

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

AWARD

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

Claimants' claims for relief, including violation of the Florida Securities and Investor Protection Act, are denied in their entirety. Claimants failed to provide credible competent evidence to prove a prima facie case on any count.

Any and all claims for relief not specifically addressed herein, including Claimants' requests 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	= \$600.00
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Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firms that employed the associated person at the time of the events giving rise to the dispute. In this matter, Respondent is a party and a member firm.

Member surcharge	= \$3,350.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$5,500.00
Total Member Fees	= \$9,600.00

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

No requests for adjournments were granted 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 @ \$1,200.00/session	= \$2,400.00
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Pre-hearing conferences:	May 18, 2004	1 session
	May 9, 2005	1 session

Twenty-Six (26) Hearing sessions @ \$1,200.00/session	= \$31,200.00
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Hearing Dates:	May 18, 2005	2 sessions
	May 19, 2005	2 sessions
	May 20, 2005	2 sessions

May 23, 2005	2 sessions
May 24, 2005	2 sessions
December 1, 2005	2 sessions
December 2, 2005	2 sessions
February 1, 2006	1 session
February 2, 2006	2 sessions
February 3, 2006	2 sessions
June 13, 2006	2 sessions
June 16, 2006	3 sessions
October 17, 2006	2 sessions

Total Forum Fees	= \$33,600.00
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The Panel waived the \$1,200.00 forum fee for the session held on February 1, 2006.

The Panel has assessed \$16,200.00 of the forum fees to Claimants, jointly and severally.

The Panel has assessed \$16,200.00 of the forum fees to Respondent.

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 are 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

Claimants are jointly and severally liable for:

Initial Filing Fee	= \$ 600.00
Forum Fees	= \$16,200.00
Total Fees	= \$16,800.00
Less payments	= \$ 1,800.00
Balance Due NASD Dispute Resolution	= \$15,000.00

Respondent is solely liable for:

Member Fees	= \$ 9,600.00
Forum Fees	= \$16,200.00
Total Fees	= \$25,800.00
Less payments	= \$10,350.00
Balance Due NASD Dispute Resolution	= \$15,450.00

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

ARBITRATION PANEL

Monica I. Salis, Esq.	-	Public Arbitrator, Presiding Chairperson
Don R. Harris	-	Public Arbitrator
Ronald F. Rohe	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

Monica I. Salis, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

Don R. Harris
Public Arbitrator

Signature Date

Ronald F. Rohe
Non-Public Arbitrator

Signature Date

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

Oct. 18. 2006 4:45PM

NASD Dispute Resolution

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- Public Arbitrator

Ronald F. Rohe

- Non-Public Arbitrator

Concerning Arbitrators' Signatures


Monica J. Salis, Esq.

Public Arbitrator, Presiding Chairperson

10/19/06
Signature Date


Don R. Harris

Public Arbitrator

Signature Date


Ronald F. Rohe

Non-Public Arbitrator

Signature Date

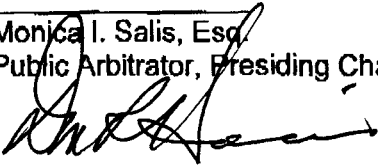
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Non-Public Arbitrator

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