

Stipulated Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Serge Kaftal, individually and as custodian for Kristopher Kaftal, and Halina Kaftal v. Merrill Lynch, Pierce, Fenner & Smith Inc., Alicia S. Greenbaum, and Mark Justin

Case Number: NASD Arb. No. 03-09194

Hearing Site: Newark, New Jersey

Nature of Dispute: Customers v. Member and Associated Persons.

REPRESENTATION OF PARTIES

Claimants Serge Kaftal, individually and as custodian for Kristopher Kaftal and Halina Kaftal: Serge I. Kaftal, M.D., Mendham, New Jersey.

Respondents Merrill Lynch, Pierce, Fenner & Smith Inc. ("Merrill Lynch"), Alicia S. Greenbaum ("Greenbaum") and Mark Justin ("Justin"): April M. Chung, Esq., Krebsbach & Snyder, P.C., New York, New York.

CASE INFORMATION

Statement of Claim filed on or about: December 30, 2003.

Claimant Serge Kaftal signed the Uniform Submission Agreement on behalf of himself and as custodian for Kristopher Kaftal: December 22, 2003.

Claimant Halina Kaftal signed the Uniform Submission Agreement: March 3, 2004.

Joint Statement of Answer filed by Respondents: March 10, 2004.

Respondent Merrill Lynch signed the Uniform Submission Agreement: March 10, 2004.

Respondent Greenbaum signed the Uniform Submission Agreement: February 18, 2004.

Respondent Justin signed the Uniform Submission Agreement: March 25, 2004.

CASE SUMMARY

Claimants asserted the following causes of action: unsuitability; negligence; breach of contract and failure to execute. Claimants' claim involved common stock and mutual funds.

Respondents denied all allegations of wrongdoing set forth in the Claimant's Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

Claimants requested compensatory damages in the amounts of \$12,200.00, \$15,000.00, and \$18,500.00; punitive damages in the amount of \$100,000.00; and costs in the amounts of \$1,000.00, \$2,500.00, and \$1,500.00.

Respondents requested that Claimants' claims be denied in all respects, that any references to this matter be expunged from Respondent Greenbaum's and Respondent Justin's registration records, and that the costs of this proceeding be assessed against Claimants.

OTHER ISSUES CONSIDERED AND DECIDED

Claimants have dismissed with prejudice all claims against Respondents Greenbaum and Justin.

On or about November 3, 2004 Claimants and Respondent Merrill Lynch notified NASD Dispute Resolution that the parties settled this matter and requested entry of this Stipulated Award.

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

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. Respondents Alicia S. Greenbaum and Mark Justin are retroactively stricken from the pleadings and records maintained by the NASD in this matter.
2. The Panel recommends the expungement of all references to the above captioned arbitration from Respondent Alicia S. Greenbaum's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notices to Members 99-09 and 99-54, Respondent Greenbaum 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 Mark Justin'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 Justin must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.
4. Any and all relief not specifically addressed herein, including punitive damages, is denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Dispute Resolution received or will collect the non-refundable filing fees for each claim as follows:

Initial claim filing fee	= \$300.00
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Member Fees

Member fees are assessed to each member firm that is either a party in the matter or an employer of a respondent associated person at the time of the events which gave rise to the dispute, claim, or controversy. In this matter, the member firm Merrill Lynch, Pierce, Fenner & Smith, Inc. is 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

Forum Fees and Assessments

The 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. Forum fees associated with these proceedings are:

One (1) Pre-hearing conference session with the Panel @ \$1,125.00/session	= \$1,125.00
Pre-hearing conference: June 24, 2004 1 session	
Total Forum Fees	= \$1,125.00

1. The Panel assessed \$562.50 of the forum fees jointly and severally against Claimants.
2. The Panel assessed \$562.50 of the forum fees jointly and severally against Respondents.

Administrative Costs

Administrative costs are expenses incurred because a party requested additional services beyond the normal administrative services. These additional services include, but are not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

Claimants requested duplication of hearing tapes	= \$ 15.00
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Fee Summary

1. Claimants are jointly and severally liable for:

Initial Filing Fee	= \$ 300.00
Forum Fees	= \$ 562.50
Administrative Costs	= \$ 15.00
Total Fees	= \$ 877.50
Less payments	= \$1,485.00
Refund Due Claimants	= \$ 607.50

2. Respondent Merrill Lynch is solely liable for:

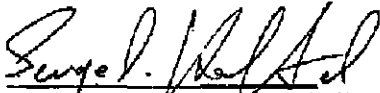
Member Fees	= \$5,200.00
Total Fees	= \$5,200.00
Less payments	= \$5,200.00
Balance Due NASD Dispute Resolution	= \$ 0.00

3. Respondents are jointly and severally liable for:

Forum Fees	= \$ 562.50
Total Fees	= \$ 562.50
Less payments	= \$ 750.00
Refund Due Merrill Lynch	= \$ 187.50

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

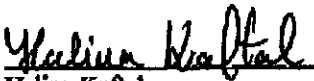
PARTIES' SIGNATURES



Serge L. Kaftal, M.D., Individually
And as custodian for Kristopher Kaftal
Claimant

12/10/04

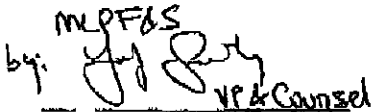
Signature Date



Halina Kaftal
Claimant

12-10-04

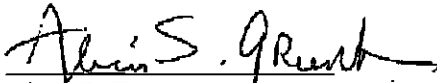
Signature Date

MLPF&S
by: 
VP & Counsel

Merrill Lynch, Pierce, Fenner & Smith, Inc. ("MLPF&S")
Respondent
Respondent

12/14/04

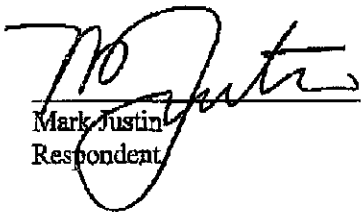
Signature Date



Alicia S. Greenbaum
Respondent

12/17/04

Signature Date



Mark Justin
Respondent

12/15/04

Signature Date

ARBITRATION PANEL

Ann Pinciss Berman, Esq.	-	Public Arbitrator, Presiding Chairperson
Stephen L. Lister, Esq.	-	Public Arbitrator
Greg Pliska	-	Non-Public Arbitrator


Concurring Arbitrators' Signatures

Ann Pinciss Berman, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

Stephen L. Lister, Esq.
Public Arbitrator

Signature Date



Greg Pliska
Non-Public Arbitrator

11/19/04

Signature Date

December 27, 2004

Date of Service (For NASD office use only)


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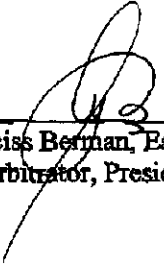
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