

Stipulated Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Michael J. Arnone and Barbara C. Arnone, h/w, Individually and as Trustees of the Michael J. Arnone, D.D.S., P.A., Employees' Retirement Plan and Trust (Claimants) v. Merrill Lynch, Pierce, Fenner & Smith, Inc. and Daniel J. Scavone (Respondents)

Case Number: 04-00082

Hearing Site: Newark, New Jersey

Nature of the Dispute: Customers v. Member and Associated Person.

REPRESENTATION OF PARTIES

Claimants Michael J. Arnone ("M. Arnone") and Barbara C. Arnone ("B. Arnone"), h/w, Individually and as Trustees of the Michael J. Arnone, D.D.S., P.A., Employees' Retirement Plan and Trust ("Arnone Retirement Plan") hereinafter collectively referred to as "Claimants": George L. Mahr, III, Esq., Mahr and Mahr, LLC, Madison, NJ.

Respondents Merrill Lynch, Pierce, Fenner & Smith, Inc. ("Merrill Lynch") and Daniel J. Scavone ("Scavone") hereinafter collectively referred to as "Respondents": John J. Murphy, III, Esq., Stradley Ronon Stevens & Young, LLP, Cherry Hill, NJ.

CASE INFORMATION

Statement of Claim filed on or about: December 31, 2003.

Claimants signed the Uniform Submission Agreement: December 18, 2003.

Joint Statement of Answer filed by Respondents on or about: March 5, 2004.

Respondent Merrill Lynch signed the Uniform Submission Agreement: April 6, 2004.

Respondent Scavone signed the Uniform Submission Agreement: April 1, 2004.

CASE SUMMARY

Claimants asserted the following causes of action: unsuitability; misrepresentation; failure to supervise; breach of fiduciary duty; and negligence. The causes of action relate to common stock.

Unless specifically admitted in their Answer, Respondents denied the allegations of wrongdoing set forth in the Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

Claimants requested compensatory damages in the amount of \$350,000.00, plus interest; punitive damages; attorneys' fees and costs; expert fees and costs; and such other relief as the Arbitrators may deem just and equitable.

Respondents requested that Claimants' case be dismissed in its entirety with prejudice; and that Respondents be compensated for all costs, including attorneys' fees.

OTHER ISSUES CONSIDERED AND DECIDED

On or about November 24, 2004, the parties advised NASD Dispute Resolution that they settled this matter.

On or about December 3, 2004, the parties submitted a stipulated award for approval by the Panel.

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 an entry of an award, the written stipulation thereto, the Panel grants the motion and enters this award granting the following relief:

1. All claims asserted by the Claimants are hereby dismissed with prejudice. Claimants and Respondents have entered into a settlement agreement in full and final satisfaction of all claims in this action.
2. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Daniel Scavone'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 Scavone must obtain confirmation from a court of competent jurisdiction before CRD will execute the expungement directive.
3. Each party shall bear its own costs and expenses associated with the above-referenced arbitration.
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 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 person at the time of the events giving rise to the dispute. 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 sessions with a single arbitrator @ \$450.00/session= \$ 450.00
Pre-hearing conference: October 25, 2004 . 1 session

One (1) Pre-hearing conference session with the Panel @ \$1,125.00/session	= \$1,125.00
Pre-hearing conference: June 14, 2004 1 session	
Total Forum Fees	= \$1,575.00

1. The Panel has assessed \$787.50 of the forum fees jointly and severally against Claimants.
2. The Panel has assessed \$787.50 of the forum fees jointly and severally against Respondents.

Fee Summary

1. Claimants are jointly and severally liable for:

Initial Filing Fee	= \$ 300.00
<u>Forum Fees</u>	<u>= \$1,125.00</u>
Total Fees	= \$1,425.00
<u>Less payments</u>	<u>= \$1,425.00</u>
Balance Due NASD Dispute Resolution	= \$ 0.00

Pursuant to Rule 10332(f) of the Code of Arbitration Procedure, NASD is retaining the total initial amount of the hearing session deposited by the Claimants because this office was notified by the parties that they settled within eight business days of the first scheduled hearing session.

2. Respondent Merrill Lynch is solely liable for:

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

3. Respondents are jointly and severally liable for:

<u>Forum Fees</u>	= \$ 787.50
Total Fees	= \$ 787.50
<u>Less payments</u>	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 787.50

All balances are due and payable to NASD Dispute Resolution

Parties' Signatures



Michael J. Arnone
Claimant

12/17/04

Signature Date



Barbara C. Arnone
Claimant

12/17/04

Signature Date



Michael J. Arnone, D.D.S., P.A.
Employees' Retirement Plan and Trust
Claimant

12/17/04

Signature Date

Merrill Lynch, Pierce, Fenner & Smith, Inc.
Respondent

Signature Date

Daniel J. Scavone
Respondent

Signature Date

Parties' Signatures

Michael J. Arnone
Claimant

Signature Date

Barbara C. Arnone
Claimant

Signature Date

Michael J. Arnone, D.D.S., P.A.
Employees' Retirement Plan and Trust
Claimant

Signature Date

MLPP&S Inc. by Thomas D. Hancor, Director
Merrill Lynch, Pierce, Fenner & Smith, Inc.
Respondent

12-23-04
Signature Date

Daniel J. Scavone
Respondent

Signature Date

Parties' Signatures

Michael J. Arnone
Claimant

Signature Date

Barbara C. Arnone
Claimant

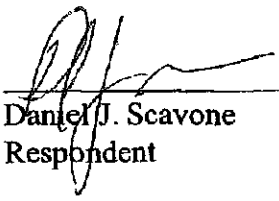
Signature Date

Michael J. Arnone, D.D.S., P.A.
Employees' Retirement Plan and Trust
Claimant

Signature Date

Merrill Lynch, Pierce, Fenner & Smith, Inc.
Respondent

Signature Date



Daniel J. Scavone
Respondent

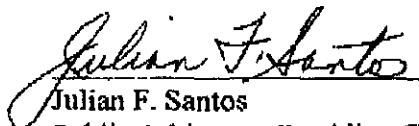
12/17/04
Signature Date

ARBITRATION PANEL

Julian F. Santos	-	Public Arbitrator, Presiding Chair
Madelon M. Rosenfeld, Esq.	-	Public Arbitrator
Jeffrey Bega	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

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 is which is my award.


Julian F. Santos

Public Arbitrator, Presiding Chair

1/18/05
Signature Date

Madelon M. Rosenfeld, Esq.
Public Arbitrator

Signature Date

Jeffrey Bega
Non-Public Arbitrator

Signature Date

January 21, 2005
Date of Service (For NASD office use only)

ARBITRATION PANEL

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Public Arbitrator, Presiding Chair

Signature Date

Madelon M. Rosenfeld, Esq.
Madelon M. Rosenfeld, Esq.
Public Arbitrator

Signature Date

Jeffrey Bega
Non-Public Arbitrator

Signature Date

January 21, 2005
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Madelon M. Rosenfeld, Esq.	-	Public Arbitrator
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Julian F. Santos
Public Arbitrator, Presiding Chair

Signature Date

Madelon M. Rosenfeld, Esq.
Public Arbitrator

Signature Date



Jeffrey Bega
Non-Public Arbitrator

1/10/05

Signature Date

January 21, 2005

Date of Service (For NASD office use only)