

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Mary S. Plettenberg, on behalf of herself and her deceased husband Frank L. Plettenberg,
Claimants v. Merrill Lynch, Pierce, Fenner & Smith Incorporated, Respondent

Case Number: 04-00180

Hearing Site: Phoenix, Arizona

Nature of the Dispute: Customers v. Member

REPRESENTATION OF PARTIES

For Claimants:

Mary S. Plettenberg
Pro Se
Phoenix, Arizona

For Respondent:

Joshua D. Jones, Esq.
Maynard, Cooper & Gale, P.C.
Birmingham, Alabama

CASE INFORMATION

Statement of Claim filed: January 9, 2004

Claimant Mary S. Plettenberg's Uniform Submission Agreement signed: June 27, 2003

Statement of Answer filed by Respondent: January 25, 2005

Respondent's Uniform Submission Agreement signed: February 15, 2005

CASE SUMMARY

Claimants alleged breach of fiduciary duty, fraud, negligent misrepresentation, negligence, violations of the Blue Sky Laws, and breach of contract. Claimants' allegations involved the purchase of ML Global Tech FD CL B.

Respondent denied the allegations of wrongdoing set forth in the Claimants' Statement of Claim.

RELIEF REQUESTED

Claimants requested \$30,706.47 in compensatory damages, unspecified punitive damages, pre- and post-judgment interest and costs, including attorney's fees.

Respondent requested dismissal of the Claimants' Statement of Claim in its entirety and that the costs of these proceedings be assessed against the Claimants.

OTHER ISSUES CONSIDERED AND DECIDED

On January 25, 2005, Respondent moved the Panel for an Order dismissing the Statement of Claim and further moved the Panel to Strike the Statement of Claim. On January 19, 2006, a telephonic pre-hearing conference was held, attended by the Parties and the Panel. After due deliberation in an executive session, the Panel granted the Motion to Dismiss.

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

After considering the pleadings and Respondent's Motion to Dismiss, the Panel decided in full and final resolution of the issues submitted for determination as follows:

- 1) Claimants' claims are dismissed without prejudice.
- 2) The parties shall bear their respective costs, including attorney's fees.
- 3) All other relief requested and not expressly granted 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	= \$ 175.00
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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 that gave rise to the dispute, claim, or controversy. Accordingly, the member firm Merrill Lynch, Pierce, Fenner & Smith Incorporated is a party and the following fees are assessed:

Member Surcharge	= \$ 875.00
Pre-Hearing Process Fee	= \$ 750.00
<u>Hearing Process Fee</u>	<u>= \$1,000.00</u>
Total Member Fees	= \$2,625.00

Forum Fees and Assessments

The Panel assessed a forum fee for each pre-hearing conference or hearing session conducted. A pre-hearing conference and hearing session is any meeting between the parties and the Chair or the parties and the Panel. The following fees are assessed:

(3) Pre-hearing conference sessions with the Panel @ \$600.00/session	= \$ 1,800.00
Pre-hearing conferences:	
March 25, 2005	1 session
January 9, 2006	1 session
January 19, 2006	1 session

Total Forum Fees	= \$1,800.00
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1. The Panel assessed \$ 900.00 of the forum fees jointly and severally to Claimants.
2. The Panel assessed \$ 900.00 of the forum fees to Respondent.

Fee Summary

1. Claimants are charged with the following fees and costs:

Filing Fees	= \$ 175.00
Forum Fees	= \$ 900.00
Total Fees	= \$ 1,075.00
Less payments	= \$(625.00)
Balance Due NASD Dispute Resolution	= \$ 450.00

2. Respondent is charged with the following fees and costs:

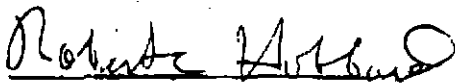
Member Fees	= \$ 2,625.00
Forum Fees	= \$ 900.00
Total Fees	= \$ 3,525.00
Less payments	= \$(2,625.00)
Balance Due NASD Dispute Resolution	= \$ 900.00

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

ARBITRATION PANEL

Robert C. Hubbard	-	Public Arbitrator, Presiding Chair
Thomas A. Peterson, III	-	Public Arbitrator
Mercedes G. Johnson	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures



Robert C. Hubbard
Chair, Public Arbitrator

Signature Date

Thomas A. Peterson, III
Public Arbitrator

Signature Date

Mercedes G. Johnson
Non-Public Arbitrator

Signature Date

1/27/06
Date of Service

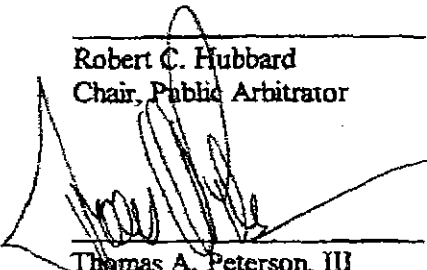
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Robert C. Hubbard	-	Public Arbitrator, Presiding Chair
Thomas A. Peterson, III	-	Public Arbitrator
Mercedes G. Johnson	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

Robert C. Hubbard
Chair, Public Arbitrator

Signature Date



Thomas A. Peterson, III
Public Arbitrator

1/25/2006

Signature Date

Mercedes G. Johnson
Non-Public Arbitrator

Signature Date

1/27/06

Date of Service

ARBITRATION PANEL

Robert C. Hubbard	-	Public Arbitrator, Presiding Chair
Thomas A. Peterson, III	-	Public Arbitrator
Mercedes G. Johnson	-	Non-Public Arbitrator

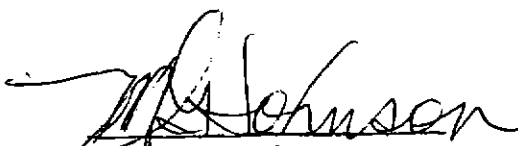
Concurring Arbitrators' Signatures

Robert C. Hubbard
Chair, Public Arbitrator

Signature Date

Thomas A. Peterson, III
Public Arbitrator

Signature Date


Mercedes G. Johnson
Non-Public Arbitrator

1/24/06
Signature Date

1/27/06
Date of Service