

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimant

Kenneth C. Hunt

Case Number: 04-00400

Names of the Respondents

Merrill Lynch, Pierce, Fenner & Smith, Inc.
Christopher Kroberger

Hearing Site: Philadelphia, Pennsylvania

Nature of the Dispute: Customer vs. Member and Associated Person.

REPRESENTATION OF PARTIES

Claimant, Kenneth C. Hunt, hereinafter referred to as "Claimant", was represented by Jeffrey D. Horn, Esq., Attorney at Law, Williamstown, New Jersey.

Respondents, Merrill Lynch, Pierce, Fenner & Smith, Inc. ("Merrill Lynch") and Christopher Kroberger ("Kroberger"), hereinafter collectively referred to as "Respondents", were represented by Alan S. Rafterman, Esq., Merrill Lynch, New York, New York.

CASE INFORMATION

Statement of Claim filed January 12, 2004.

Claimant signed the Uniform Submission Agreement on May 21, 2003.

Statement of Answer filed by Respondents on March 24, 2004.

A representative of Respondent Merrill Lynch executed the Uniform Submission Agreement on March 24, 2004.

Respondent Kroberger signed the Uniform Submission Agreement on March 23, 2004.

CASE SUMMARY

Claimant, in his Statement of Claim, asserted the following causes of action, among others: suitability and failure to advise regarding risk. The causes of action relate to the purchase of shares of ML Global Tech Fund.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted the following defenses, among others: Claimant's claim fails to state a cause of action upon which relief may be granted; Claimant's own action or inaction caused any alleged damages; failure to mitigate damages; ratification; waiver; estoppel; Claimant's claim is barred by the doctrine of laches and the applicable statutes of limitation; Claimant's losses, if any, were not proximately caused by Respondents; and comparative and/or contributory negligence

RELIEF REQUESTED

Claimant in his Statement of Claim requested:

Compensatory Damages	\$ 40,722.00
Attorneys' Fees	amount unspecified
Other Costs	amount unspecified

Respondents in their Statement of Answer requested that the Statement of Claim be dismissed in its entirety; that Respondents be awarded the costs and expenses of this arbitration, including forum fees and reasonable attorneys' fees, that this complaint be expunged from Respondent Kroberger's records maintained at the NASD Central Registration Depository ("CRD"), and that Respondents be awarded such other and further relief as is just and proper.

OTHER ISSUES CONSIDERED AND DECIDED

The parties have 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, the testimony and evidence presented at the hearing, the Arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

1. Claimant's claims are denied in their entirety;
2. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Kroberger'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 Kroberger must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive;
3. All claims for attorneys' fees are denied in their entirety;
4. The parties shall bear their respective costs, except as Fees are specifically addressed below; and
5. Any and all relief not specifically addressed herein 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 = \$ 175.00

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(s) at the time of the events giving rise to the dispute. Accordingly, Respondent Merrill Lynch is a party.

Member surcharge = \$ 875.00

Pre-hearing process fee = \$ 750.00

Hearing process fee = \$ 1,000.00

Total Member Fees = \$ 2,625.00

Forum Fees and Assessments

The Arbitrator 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:

One (1) Pre-hearing session with a single arbitrator @ \$ 450.00 = \$ 450.00

Pre-hearing conference: July 27, 2004 1 session

Three (3) Hearing sessions @ \$ 450.00 = \$ 1,350.00

Hearing Dates: June 8, 2005 2 sessions

June 9, 2005 1 session

Total Forum Fees = \$ 1,800.00

1. The Arbitrator has assessed \$ 900.00 of the forum fees to Claimant.

2. The Arbitrator has assessed \$ 900.00 of the forum fees jointly and severally to Respondents.

SEE SUMMARY

Claimant is assessed and shall pay:

Initial Filing Fee = \$ 175.00

Forum Fees = \$ 900.00

Total Fees = \$ 1,075.00

Less payments = \$ 625.00

Balance Due NASD Dispute Resolution = \$ 450.00

Respondent, Merrill Lynch, is assessed and shall pay:

Member Fees = \$ 2,625.00

Total Fees = \$ 2,625.00

Less payments = \$ 2,625.00

Balance Due NASD Dispute Resolution = \$ 00.00

Respondents, Merrill Lynch and Kroberger, are jointly and severally assessed and shall pay:

<u>Forum Fees</u>	= \$ 900.00
<u>Total Fees</u>	= \$ 900.00
<u>Less payments</u>	= \$ 00.00
Balance Due NASD Dispute Resolution	= \$ 900.00

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


SOLE ARBITRATOR

Paul J. Leis

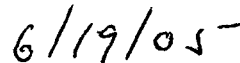
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Public Arbitrator, Sole Arbitrator

Sole Arbitrator's Signature



Paul J. Leis
Public Arbitrator, Sole Arbitrator



Signature Date



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