

**STIPULATED AWARD  
NASD Dispute Resolution**

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In the Matter of the Arbitration Between

Claimant

Elizabeth Dickinson

and

Case Number: 04-00669  
Hearing Site: Detroit, Michigan

Respondents

Merrill Lynch Pierce Fenner & Smith, Inc.,  
and Terence Anthony Palleschi

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**NATURE OF CASE**

Customer v. Member and Associated Person

**REPRESENTATION OF PARTIES**

Elizabeth Dickinson ("Claimant") was represented by Victor Norris, Esq., and Bradford T. Yaker, Esq., Hertz, Schram & Saretsky, P.C., Bloomfield Hills, Michigan until on or about August 5, 2004. Thereafter, Claimant was represented by Bradford T. Yaker, Esq., Nedelman Pawlak PLLC, Farmington Hills, Michigan.

Merrill Lynch Pierce Fenner & Smith, Inc. ("Merrill Lynch") and Terence Anthony Palleschi ("Palleschi"), hereinafter collectively referred to as "Respondents," were represented by Clarence L. Pozza, Esq. and W. Scott Turnbull, Esq., Miller, Canfield, Paddock & Stone, PLC, Detroit, Michigan.

**CASE INFORMATION**

The Statement of Claim was filed on or about February 2, 2004. The Submission Agreement of Claimant was signed on or about January 27, 2004.

The Statement of Answer was filed jointly by Respondents on or about May 20, 2004. The Submission Agreement of Merrill Lynch was signed on or about April 4, 2004.

**CASE SUMMARY**

Claimant asserted the following causes of action: unsuitable recommendations, breach of contract, misrepresentation, breach of fiduciary duty, violation of state and federal securities laws, and negligence. The causes of action related to Claimant's allegations that Palleschi mishandled her investment accounts by recommending risky transactions in various unspecified securities, placing trades without her permission, and failing to properly diversify her accounts.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted affirmative defenses including the following: Claimant failed to state a claim upon which relief can be granted; Claimant is barred by the applicable statute of limitations; and Claimant ratified the alleged actions.

### **RELIEF REQUESTED**

Claimant requested an award in the amount of:

Actual/Compensatory Damages	\$1,000,000.00
Punitive Damages	Unspecified
Interest	Unspecified
Attorney's Fees	Unspecified
Other Costs	Unspecified
Other Monetary Relief	Unspecified

Respondents requested that the claims asserted against them be denied in their entirety and that they be awarded their costs and attorneys' fees. Respondents also requested expungement of this claim from the CRD records of Respondent Palleschi.

### **OTHER ISSUES CONSIDERED & DECIDED**

Palleschi did not file with NASD Dispute Resolution a properly executed submission to arbitration but is required to submit to arbitration pursuant to Rule 10301 of the NASD Code of Arbitration Procedure (the "Code"), and having answered the claim, is bound by the determination of the arbitration panel on all issues submitted.

Claimant, having had an opportunity to review the records and documents produced in pre-hearing discovery and discuss the contents thereof with her counsel, stipulates and agrees with Respondents that Claimant has no opposition to the expungement of all reference to the above-captioned arbitration from all registration records of Respondent Terrance Palleschi maintained by the NASD Central Registration Depository ("CRD").

Claimant has agreed to withdraw and dismiss all claims in this matter with prejudice and without costs.

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. In either case, the parties have agreed to receive conformed copies of the award while the original remain on file with the NASD Dispute Resolution (the "NASD").

### **AWARD**

After considering the parties' submissions and representations, but without making any findings of fact or conclusions of law, the undersigned arbitrators order as follows:

- 1.) Claimant's claims, having been withdrawn, are dismissed with prejudice;
- 2.) Other than Forum Fees which are specified below, the parties shall each bear their own costs and expenses incurred in this matter;
- 3.) The panel recommends the expungement of all reference to the above captioned arbitration from Terence Anthony Palleschi's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 99-09, Terence Anthony Palleschi must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive; and
- 4.) Any relief not specifically enumerated, including punitive damages and attorneys' fees, is hereby dismissed with prejudice.

### **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	= \$ 375.00
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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 firm that employed the associated person at the time of the events giving rise to the dispute. In this matter, the member firm is Merrill Lynch Pierce Fenner & Smith, Inc.

Member surcharge	= \$ 2,250.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$ 4,000.00

### **Adjournment Fees**

Adjournments requested during these proceedings:

The parties jointly requested an adjournment of the following hearing dates:

January 31-February 2, 2005 = \$ 1,200.00

The parties jointly requested a second adjournment of the following hearing dates:

June 7-8, 2005 = \$ 1,500.00

### **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:

The parties requested an adjournment of the June 9 - 10, 2005 hearing dates on June 6, 2005 = \$ 300.00

The parties advised the panel they reached settlement at the hearing on June 9, 2005. The hearing was schedule to continue June 10, 2005. The Panel waived the \$300.00 fee.

### **Forum Fees and Assessments**

The Arbitration 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. Fees associated with these proceedings are:

Two (2) Pre-hearing sessions with Panel x \$1,200.00 = \$ 2,400.00

Pre-hearing conferences: August 10, 2004 1 session  
March 24, 2005 1 session

One (1) Hearing session x \$1,200.00 = \$ 1,200.00

Hearing Date: June 9, 2005 1 session

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Total Forum Fees = \$ 3,600.00

Pursuant to the parties' agreement, the Panel has assessed \$1,800.00 of the forum fees to Claimant and \$1,800.00 of the forum fees, to Respondents jointly and severally.

### FEE SUMMARY

Claimant, Elizabeth Dickinson, is liable for:

Filing Fee	= \$ 375.00
Forum Fees	= \$ 1,800.00
Adjournment Fees	= \$ 1,350.00
Three-Day Cancellation Fees	= \$ 150.00
Total Fees	= \$ 3,675.00
Less payments	= \$ 1,900.00
Balance Due NASD Dispute Resolution	= \$ 1,775.00

Respondent, Merrill Lynch, is liable for:

Member Fees	= \$ 7,000.00
Total Fees	= \$ 7,000.00
Less payments	= \$ 7,000.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondents, Merrill Lynch and Palleschi, are jointly and severally liable for:

Adjournment Fees	= \$ 1,350.00
Three-Day Cancellation Fees	= \$ 150.00
Forum Fees	= \$ 1,800.00
Total Fees	= \$ 3,300.00
Less payments	= \$ 2,400.00
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.

**ARBITRATION PANEL**

Lawrence Jay Ellenbogen, Esq.- Public Arbitrator, Presiding Chair  
Jerome D. Sobczak- Public Arbitrator  
Joseph R. Papo- Non-Public Arbitrator

Concurring Arbitrators:

/s/ Lawrence Jay Ellenbogen, Esq.  
Lawrence Jay Ellenbogen, Esq.  
Public Arbitrator, Presiding Chair

\_\_\_\_\_  
Signature Date

/s/ Jerome D. Sobczak  
Jerome D. Sobczak  
Public Arbitrator

08/25/05  
Signature Date

/s/ Joseph R. Papo  
Joseph R. Papo  
Non-Public Arbitrator

\_\_\_\_\_  
Signature Date

09/21/05  
Date of Service (For NASD office use only)

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**ARBITRATION PANEL**

Lawrence Jay Ellenbogen, Esq.- Public Arbitrator, Presiding Chair  
Jerome D. Sobczak- Public Arbitrator  
Joseph R. Papo- Non-Public Arbitrator

**Concurring Arbitrators:**

\_\_\_\_\_  
Lawrence Jay Ellenbogen, Esq.  
Public Arbitrator, Presiding Chair

\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Jerome D. Sobczak  
Public Arbitrator

\_\_\_\_\_  
Signature Date

*Joseph R. Papo*  
\_\_\_\_\_  
Joseph R. Papo  
Non-Public Arbitrator

\_\_\_\_\_  
Signature Date

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Date of Service (For NASD office use only)

NASD Dispute Resolution  
Arbitration No. 04-00568  
Stipulated Award Page 6 of 6

**ARBITRATION PANEL**

Lawrence Jay Ellenbogen, Esq.- Public Arbitrator, Presiding Chair  
Jerome D. Sobczak- Public Arbitrator  
Joseph R. Papo- Non-Public Arbitrator

**Concurring Arbitrators:**

Lawrence Jay Ellenbogen, Esq.  
Public Arbitrator, Presiding Chair

Signature Date

Jerome D. Sobczak  
Jerome D. Sobczak  
Public Arbitrator

8-25-05  
Signature Date

Joseph R. Papo  
Non-Public Arbitrator

Signature Date

Date of Service (For NASD office use only)



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