

**Stipulated Award
NASD Dispute Resolution**

In the Matter of the Arbitration Between:

Charles Kenneth Cosentino, an Individual and Panther Technologies, Inc., Claimants vs. Merrill Lynch, Pierce, Fenner & Smith Incorporated and Daniel J. White, Jr., Respondents

Case Number: 04-00773

Hearing Site: San Francisco, California

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

REPRESENTATION OF PARTIES

For Claimants:

James Jay Seltzer, Esq.
Michael Harrington, Esq.
Law Offices of James Jay Seltzer
Emeryville, California

For Respondents:

Ben Suter, Esq.
Garrett R. Wynne, Esq.
Keesal, Young & Logan
San Francisco, California

CASE INFORMATION

Statement of Claim filed: February 5, 2004

Claimants' Uniform Submission Agreement signed: February 4, 2004

Joint Statement of Answer filed by Respondents Merrill Lynch, Pierce, Fenner & Smith Incorporated ("Merrill Lynch") and Daniel J. White, Jr.: November 1, 2004

Respondent Merrill Lynch's Uniform Submission Agreement signed: March 1, 2004

Respondent Daniel J. White, Jr.'s Uniform Submission Agreement signed: March 15, 2004

CASE SUMMARY

In the Statement of Claim, Claimants complain that Respondents failed to recommend suitable investments given Claimants' risk tolerance and investment experience. Claimants' dispute involved investments in Broadcom stock. Respondents' position is that the alleged losses were the result of uncontrollable market forces and Claimants' self-directed investment decisions. Furthermore, the investment recommendations were suitable given the Claimants' stated risk tolerance and financial profile.

RELIEF REQUESTED

Claimants requested unspecified compensatory damages, attorneys' fees, costs, punitive damages, trebling of the final award, and such further action deemed just and appropriate in this matter.

Respondents requested dismissal of the Claimants' Statement of Claim in its entirety and an award of costs and forum fees. Respondents also requested an expungement of all references to the above captioned arbitration from Daniel J. White, Jr.'s registration records maintained by the NASD Central Registration Depository.

OTHER ISSUES CONSIDERED AND DECIDED

On March 2, 2004, Claimants and Claimants' counsel signed a Waiver Agreement expressly waiving any and all rights and benefits under California Civil Code Section 1542 and the California Ethical Standards for Neutral Arbitrators.

Pursuant to the Code of Arbitration Procedure IM-10100, the waiver of the Claimants shall constitute and operate as a waiver for all member firms and associated persons (including terminated or otherwise inactive member firms or associated persons) against whom the Claim has been filed.

The parties agreed that the Stipulated Award in this matter may be executed in counterpart copies.

STIPULATION

It is hereby stipulated by Claimants and Respondents, through their undersigned attorneys that:

1. All of Claimants' claims asserted against the Respondents are hereby dismissed with prejudice; and

2. Claimants and Respondents jointly request that the Panel render the following award:

The Panel recommends the expungement of all references to the above captioned arbitration from Respondent Daniel J. White Jr.'s registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 99-09, Respondent Daniel J. White, Jr. must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

AWARD

After considering the preceding Stipulation of the parties, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Claimants' claims are dismissed with prejudice in their entirety as to all Respondents.
2. The Panel recommends the expungement of all references to the above captioned arbitration from Respondent Daniel J. White, Jr.'s registration records maintained by the CRD, with the understanding that pursuant to NASD Notice to Members 99-09, Respondent Daniel J. White, Jr. must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.
3. Each party shall bear its own costs, including attorneys' fees.
4. All other relief 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	= \$ 250.00
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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 is a party and the following fees are assessed:

Member Surcharge	= \$	1,500.00
Pre-Hearing Process Fee	= \$	750.00
Hearing Process Fee	= \$	2,200.00
Total Member Fees	= \$	4,450.00

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.

Cancellation of October 3-7, 2005 hearing dates: = \$ 200.00

The Panel waived the three-day cancellation fee of \$200.00.

Forum Fees and Assessments

The Panel has assessed forum fees for each session conducted or each decision rendered on a discovery-related motion on the papers. 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:

(2) Pre-hearing conference sessions with the Panel @ \$1,000.00/session	= \$	2,000.00
Pre-hearing conferences: January 20, 2005	1 session	
May 10, 2006	1 session	

Total Forum Fees	= \$	2,000.00
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1. The Panel assessed \$500.00 of the forum fees jointly and severally to Claimants Charles Kenneth Cosentino and Panther Technologies, Inc.

2. The Panel assessed \$1,500.00 of the forum fees jointly and severally to Respondents Merrill Lynch and Daniel J. White, Jr.

Fee Summary

1. Claimants Charles Kenneth Cosentino and Panther Technologies, Inc. are charged jointly and severally with the following fees and costs:

Initial Filing Fee	= \$	250.00
Forum Fees	= \$	500.00
Total Fees	= \$	750.00
Retained deposit in accordance with Rule 10332(f) of the Code	= \$	500.00
Less Payments	= \$(1,250.00)
Balance Due NASD Dispute Resolution	= \$	0.00

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

Member Fees	= \$ 4,450.00
<u>Less Payments</u>	= \$(4,450.00)
Balance Due NASD Dispute Resolution	= \$ 0.00

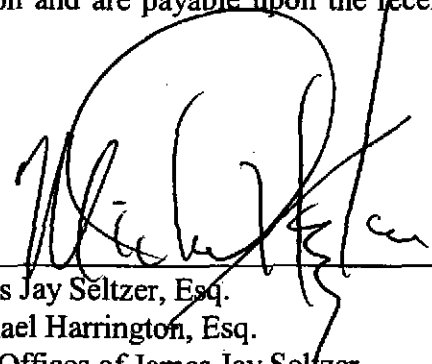
3. Respondents Merrill Lynch and Daniel J. White, Jr. are charged jointly and severally with the following fees and costs:

Forum Fees	= \$ 1,500.00
<u>Less Payments</u>	= \$(0.00)
Balance Due NASD Dispute Resolution	= \$ 1,500.00

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

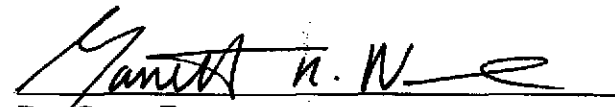
Parties' Signatures

Dated: 6/21/06



James Jay Seltzer, Esq.
Michael Harrington, Esq.
Law Offices of James Jay Seltzer
Attorneys for Claimants

Dated: 5/10/2006



Ben Suter, Esq.
Garrett R. Wynne, Esq.
Keesal, Young & Logan
Attorneys for Respondents

ARBITRATION PANEL

D'Anne J. Quinton	-	Public Arbitrator, Presiding Chair
Henry H. Hersch, Esq.	-	Public Arbitrator
Paul A. D. Evans	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

D'Anne Quinton

D'Anne J. Quinton
Chair, Public Arbitrator

June 27, 2006

Signature Date

Henry H. Hersch, Esq.
Public Arbitrator

Signature Date

Paul A. D. Evans
Non-Public Arbitrator

Signature Date


July 13, 2006
Date of Service

ARBITRATION PANEL

D'Anne J. Quinton	-	Public Arbitrator, Presiding Chair
Henry H. Hersch, Esq.	-	Public Arbitrator
Paul A. D. Evans	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

D'Anne J. Quinton
Chair, Public Arbitrator



Henry H. Hersch, Esq.
Public Arbitrator

Signature Date

7/10/06

Signature Date

Paul A. D. Evans
Non-Public Arbitrator

Signature Date

July 13, 2006
Date of Service

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Henry H. Hersch, Esq.	-	Public Arbitrator
Paul A. D. Evans	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

D'Anne J. Quinton
Chair, Public Arbitrator

Signature Date

Henry H. Hersch, Esq.
Public Arbitrator

Signature Date



Paul A. D. Evans
Non-Public Arbitrator

7/10/2006.

Signature Date

July 13, 2006

Date of Service