

Stipulated Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Donald L. Magruder and Roberta T. Magruder, Individually and as Trustees of the Magruder Family Trust, Claimants v. Merrill Lynch, Pierce, Fenner & Smith, Inc. and Matthew N. Morrison, Respondents

Case Number: 04-00917

Hearing Site: San Diego, California

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

REPRESENTATION OF PARTIES

For Claimants:

William S. Bonnheim, Esq.
William S. Bonnheim, PLC
Palm Desert, California

For Respondents:

Harold G. Ognelodh, Esq.
Merrill Lynch, Pierce, Fenner & Smith, Inc.
New York, New York

Benjamin J. Biard, Esq.
Merrill Lynch, Pierce, Fenner & Smith, Inc.
Miami, Florida

CASE INFORMATION

Statement of Claim filed: March 8, 2004

Claimants' Joint Uniform Submission Agreement signed: March 19, 2004

Joint Statement of Answer filed by Respondents: June 9, 2004

Respondent Merrill Lynch, Pierce, Fenner & Smith, Inc.'s Uniform Submission Agreement signed: June 9, 2004

Respondent Matthew N. Morrison's Uniform Submission Agreement received on: June 11, 2004

CASE SUMMARY

Claimants alleged breach of fiduciary duty, failure to supervise, violation of federal and state securities laws, violation of NASD and New York Stock Exchange rules, elder abuse and unfair or deceptive practices against senior citizens involving Internet Infrastructure, 3Com Corp Development, I Link Inc., Mestergraphics, Inc., Intel Corporation, Cisco Systems, and other unspecified securities.

Respondents denied the allegations of wrongdoing set forth in the Claimants' Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

Claimants requested \$50,000.00 in compensatory damages, all profits Respondents generated from the accounts, lost opportunity costs, interest at the legal rate, and costs, including attorney's fees.

Respondents requested dismissal of the Claimants' Statement of Claim in its entirety, assessment of forum fees against the Claimants, and costs, including attorney's fees. Respondent Matthew N. Morrison also requested that all references to this arbitration be stricken from his permanent registration record maintained by the Central Registration Depository ("CRD").

OTHER ISSUES CONSIDERED AND DECIDED

On April 14, 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 waivers 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.

On February 8, 2005, NASD Dispute Resolution received notice of settlement.

The parties agreed that a handwritten, signed Award may be entered.

AWARD

After considering the pleadings, and the Parties' request for this Stipulated Award, the Panel decided in full and final resolution of the issues submitted for determination as follows:

1. Claimants and Respondents have entered into a confidential settlement agreement.
2. All claims against the Respondents are dismissed with prejudice.
3. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Matthew N. Morrison's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 99-09 and 99-54, Respondent Matthew N. Morrison must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.
4. Each party shall bear its own costs and expenses associated with the above-referenced arbitration, as determined by NASD.
5. Any and all relief not specifically addressed herein 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

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 which gave rise to the dispute, claim, or controversy. Accordingly, the member firm Merrill Lynch, Pierce, Fenner & Smith, Inc. is a party and the following fees are assessed:

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 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 Arbitrator. The following fees are assessed:

Two (2) Pre-hearing conference sessions with the Arbitrator @ \$450.00/session = \$ 900.00

Pre-hearing conferences: July 27, 2004 1 session

January 25, 2005 1 session

Total Forum Fees = **\$ 900.00**

1. The Panel assessed \$450.00 of the forum fees jointly and severally to Claimants Donald L. Magruder and Roberta T. Magruder, Individually and as Trustees of the Magruder Family Trust.
2. The Panel assessed \$450.00 of the forum fees jointly and severally to Respondents Merrill Lynch, Pierce, Fenner & Smith, Inc. and Matthew N. Morrison.

Fee Summary

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

Initial Filing Fee	= \$ 175.00
<u>Forum Fees</u>	= \$ 450.00
Total Fees	= \$ 625.00
<u>Less payments</u>	= \$(625.00)
Balance Due NASD Dispute Resolution	= \$ 0.00

2. Respondent Merrill Lynch, Pierce, Fenner & Smith, Inc. is charged with the following fees and costs:

Member Fees	= \$ 2,625.00
<u>Less payments</u>	= \$(2,625.00)
Balance Due NASD Dispute Resolution	= \$ 0.00

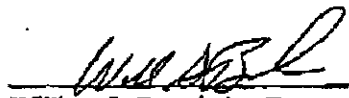
3. Respondents Merrill Lynch, Pierce, Fenner & Smith, Inc. and Matthew N. Morrison are charged jointly and severally with the following fees and costs:

Forum Fees	= \$ 450.00
<u>Less payments by Merrill Lynch, Pierce, Fenner & Smith, Inc.</u>	= \$(825.00)
Refund Due Merrill Lynch, Pierce, Fenner & Smith, Inc.	= \$(375.00)

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.

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Parties' Signatures



William S. Bonenheim, Esq.
For Claimants Donald L. Magruder and
Roberta T. Magruder, individually and as
Trustees of the Magruder Family Trust

6/28/05

Signature Date

Harold G. Ognelodh, Esq.
Benjamin J. Biard, Esq.
For Respondents
Merrill Lynch, Pierce, Fenner & Smith, Inc.
and Matthew N. Morrison

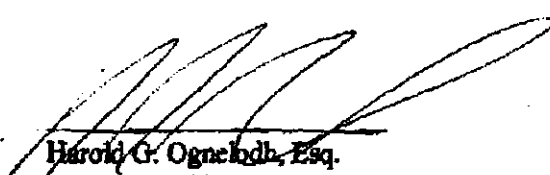
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Signature Date


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Benjamin J. Biard, Esq.
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Merrill Lynch, Pierce, Fenner & Smith, Inc.
and Matthew N. Morrison

6.28.05
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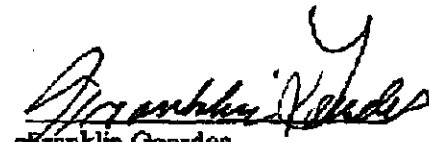
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ARBITRATOR

Franklin Geerdes

Public Arbitrator, Presiding Chair

Arbitrator's Signature


Franklin Geerdes
Chair, Public Arbitrator

6-30-05
Signature Date

June 30, 2005
Date of Service