
Stipulated Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimant
Kay A. Miller

Case Number: 04-00976

Names of the Respondents
Merrill Lynch, Pierce, Fenner & Smith, Inc.
Thomas Anthony Keiser

Hearing Site: Boca Raton, FL

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

REPRESENTATION OF PARTIES

For Kay A. Miller ("Miller"), hereinafter referred to as "Claimant": Jan Douglas Atlas, Esq. and Dale A. Ledbetter, Esq., Adorno & Yoss, P.A., Fort Lauderdale, Florida.

For Merrill Lynch, Pierce, Fenner & Smith, Inc. ("MLPFS") and Thomas Anthony Keiser ("Kieser"), hereinafter collectively referred to as "Respondents": Judith A. O'Brien, Esq., and Frank D. LoMonte, Esq., Sutherland, Asbill & Brennan, LLP, Atlanta, Georgia.

CASE INFORMATION

Statement of Claim filed on or about: February 12, 2004.
Claimant signed the Uniform Submission Agreement: February 10, 2004.
Statement of Answer filed by Respondents on or about: June 21, 2004.
Respondent MLPFS signed the Uniform Submission Agreement: March 30, 2004.
Respondent Keiser signed the Uniform Submission Agreement: June 23, 2004.
Motion to Dismiss filed by Respondents on or about: July 1, 2004.
Opposition to Motion to Dismiss filed by Claimant on or about: July 15, 2004.

CASE SUMMARY

Claimant asserted that Respondents allowed her husband to make unauthorized purchases in her brokerage account without obtaining a valid power of attorney. Claimant also asserted that her account was over-concentrated in investments that were not suited to her objectives. Claimant advanced the following causes of action: negligence; breach of fiduciary duty; failure to supervise; and violation of the Florida Securities and Investor Protection Act. The causes of action relate to the purchase of shares of stock in Lucent.

Unless specifically admitted in its Answer, Respondent denied the allegations made in the Statement of Claim and asserted various defenses. Respondents asserted that Claimant personally placed all trades by failing to object after receiving confirmation of the purchases, and further

asserted that recovery was precluded by the defenses of unclean hands, comparative negligence, and the Florida economic loss rule.

RELIEF REQUESTED

Claimant requested compensatory damages in excess of \$500,000.00; disgorgement of all commissions, charges and fees; plus interest; punitive damages; opportunity costs; attorney's fees pursuant to Florida Statutes Chapter 517; the costs, expenses and disbursements of this proceeding; and such other relief as is deemed just and proper.

Respondents requested an award dismissing the claim in its entirety with prejudice and assessing all costs against Claimant.

OTHER ISSUES CONSIDERED AND DECIDED

The undersigned arbitrators (the "Panel") denied Respondents' Motion to Dismiss by Order dated February 10, 2005.

On or about May 3, 2005, Claimant advised NASD Dispute Resolution that this arbitration proceeding had been amicably settled.

On or about May 5, 2005, Claimant filed a Notice of Voluntary Dismissal with Prejudice as to all claims against Respondent Keiser.

On or about June 16, 2005, Respondents filed a Request that the Panel Reopen the Arbitration Matter for Purposes of Entering a Stipulated Award together with a proposed Stipulated Award requesting that all references to this matter be expunged from the NASD Central Registration Depository ("CRD") record of Respondent Keiser.

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

AWARD

After considering the pleadings, the testimony and evidence presented at the hearing, (and the post-hearing submissions) the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. The parties have amenablely resolved their differences and have requested this Stipulated Award.
2. The Panel recommends the expungement of all references to the above captioned arbitration from Respondent Keiser's public and non-public registration records maintained by the NASD CRD, with the understanding that pursuant to NASD Notices to Members 99-09 and 99-54, Respondent Keiser must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

3. The parties shall bear their respective costs, including attorney's fees, except as specifically addressed below.
4. Any and all claims for relief not specifically addressed herein, including Claimant's request for punitive damages, are denied.

FEES

Pursuant to the NASD Code of Arbitration Procedure (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	= \$300.00
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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. Accordingly, Respondent MLPFS is a member firm and a party.

Member surcharge	= \$1,700.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$2,750.00
Total Member Fees	= \$5,200.00

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

No adjournment fees were incurred during these proceedings.

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.

No three-day cancellation fees were incurred during these proceedings.

Injunctive Relief Fees

Injunctive relief fees are assessed to each member or associated person who files for a temporary injunction in court. Parties in these cases are also assessed arbitrator travel expenses and costs when an arbitrator is required to travel outside his or her hearing location and additional arbitrator honoraria for the hearing for permanent injunction. These fees, except the injunctive relief surcharge, are assessed equally against each party unless otherwise directed by the panel.

No injunctive relief fees were incurred during these proceedings.

Forum Fees and Assessments

The Panel has assessed forum fees for each session conducted. A 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 the Panel @ \$1,125.00	= \$2,250.00
Pre-hearing conferences: August 24, 2004	1 session
January 19, 2005	1 session

Total Forum Fees = \$2,250.00

The Panel has assessed \$1,125.00 of the forum fees to Claimant.

The Panel has assessed \$1,125.00 of the forum fees jointly and severally to Respondents.

Administrative Costs

Administrative costs are expenses incurred due to a request by a party for special services beyond the normal administrative services. These include, but are not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

No administrative costs were incurred during these proceedings.

Fee Summary

Claimant is solely liable for:

Initial Filing Fee	= \$ 300.00
<u>Forum Fees</u>	<u>= \$1,125.00</u>
Total Fees	= \$1,425.00
<u>Less payments</u>	<u>= \$1,425.00</u>
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondent MLPFS is solely liable for:

<u>Member Fees</u>	<u>= \$5,200.00</u>
Total Fees	= \$5,200.00
<u>Less payments</u>	<u>= \$5,200.00</u>
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondents MLPFS and Keiser are jointly and severally liable for:

<u>Forum Fees</u>	<u>= \$1,125.00</u>
Total Fees	= \$1,125.00
<u>Less payments</u>	<u>= \$1,125.00</u>
Balance Due NASD Dispute Resolution	= \$ 0.00

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

ARBITRATION PANEL

Howard A. Rose, Esq.,	-	Public Arbitrator, Presiding Chairperson
Anthony S. Paetro, Esq.	-	Public Arbitrator
G. Robert Abrams, Esq.	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

/s/
Howard A. Rose, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

/s/
Anthony S. Paetro, Esq.
Public Arbitrator

Signature Date

/s/
G. Robert Abrams, Esq.
Non-Public Arbitrator

Signature Date

June 27, 2005

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

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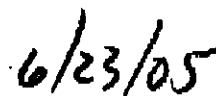
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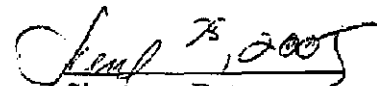
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