

**STIPULATED AWARD
NASD Dispute Resolution**

In the Matter of the Arbitration Between

Claimants

David and Matthew Parks

and

Case Number: 04-01505
Hearing Site: Detroit, Michigan

Respondents

Merrill Lynch, Pierce, Fenner & Smith, Inc.,
and Ronald Mathew Shmyr

NATURE OF CASE

Customers v. Member and Associated Person

REPRESENTATION OF PARTIES

David and Matthew Parks ("Claimants") were represented by Anthony V. Trogan, Esq., and Lysa Postula-Stein, Esq., Anthony V. Trogan PLLC, West Bloomfield, Michigan.

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

CASE INFORMATION

The Statement of Claim was filed on or about March 4, 2004. The Submission Agreement of Claimants was signed on or about February 24, 2004.

The Statement of Answer was filed jointly by Respondents on or about June 18, 2004. The Submission Agreement of Merrill Lynch was signed on or about April 2, 2004. The Submission Agreement of Shmyr was signed on or about July 6, 2004.

CASE SUMMARY

Claimants asserted the following causes of action: churning; fraud; unauthorized trading; suitability; breach of contract; negligence; breach of fiduciary duty; conspiracy and breach of securities laws. The causes of action related to the recommendation and subsequent purchase of Focus 20, a Merrill Lynch proprietary product, for Claimants' Merrill Lynch investment accounts.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted affirmative defenses including the following: the Statement of Claim and all claims therein fail to state a claim upon which relief can be granted; the Statement of Claim and all claims therein are barred by reason of the applicable statute of limitations or other period of limitations; and the Statement of Claim and all claims therein are barred by reason of Claimants' negligence, comparative negligence and contributory negligence.

RELIEF REQUESTED

Claimants requested an award in the amount of:

Actual/Compensatory Damages	\$307,000.00
Punitive Damages	Unspecified
Attorneys' Fees	Unspecified
Interest	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. Respondent Shmyr also requested that all references to this matter be expunged from his registration records maintained by NASD Central Registration Depository ("CRD").

OTHER ISSUES CONSIDERED & DECIDED

Claimants, having had an opportunity to review the records and documents produced in pre-hearing discovery and discuss the contents thereof with their counsel, stipulate and agree with Respondents to the expungement of all reference to the above-captioned arbitration from all registration records of Respondent Ronald Shmyr maintained by CRD.

Claimants have agreed to withdraw and dismiss all claims in this case against all Respondents 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(s) 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. Claimants' 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 Respondent Ronald Mathew Shmyr's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 99-09, Respondent Ronald Mathew Shmyr 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 = \$ 300.00

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	= \$1,700.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$2,750.00

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 settled this matter on July 21, 2005. The case was scheduled on July 26-28, 2005. = \$ 300.00

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:

One (1) Pre-hearing session with Panel	x	\$1,125.00	= \$1,125.00
Pre-hearing conference:	August 20, 2004	1 session	
Total Forum Fees			= \$1,125.00

The Arbitration Panel has assessed \$562.50 of the forum fees jointly and severally to Merrill Lynch, Pierce, Fenner & Smith, Inc. and Ronald Mathew Shmyr.

Pursuant to the NASD Code of Arbitration Procedure Rule 10332(f), Claimants' Hearing Session Deposit of \$1,125.00 is retained.

FEE SUMMARY

Claimants are jointly and severally liable for:

Initial Filing Fee	= \$ 300.00
Three-Day Cancellation Fee	= \$ 150.00
Forum Fees	= \$1,125.00
Total Fees	= \$1,575.00
Less payments	= \$1,425.00
Balance Due NASD Dispute Resolution	= \$ 150.00

Respondent, Merrill Lynch, Pierce, Fenner & Smith, Inc., is liable for:

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

Respondents, Merrill Lynch, Pierce, Fenner & Smith, Inc. and Ronald Mathew Shmyr, are jointly and severally liable for:

Three-Day Cancellation Fee	= \$ 150.00
Forum Fees	= \$ 562.50
Total Fees	= \$ 712.50
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 712.50

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

ARBITRATION PANEL

Harvey Frank – Public Arbitrator, Presiding Chair
John M. Collins - Public Arbitrator
Mark A. Cleland - Non-Public Arbitrator

Concurring Arbitrators:

/s/ Harvey Frank
Harvey Frank
Public Arbitrator, Presiding Chair

09/13/05
Signature Date

/s/ John M. Collins
John M. Collins
Public Arbitrator

09/20/05
Signature Date

/s/ Mark A. Cleland
Mark A. Cleland
Non-Public Arbitrator

09/26/05
Signature Date

09/26/05
Date of Service (For NASD office use only)

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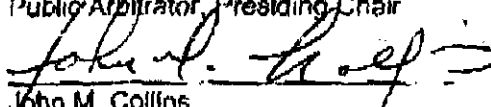
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Concurring Arbitrators:

Harvey Frank
Public Arbitrator, Presiding Chair

Signature Date


John M. Collins
Public Arbitrator

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ARBITRATION PANEL

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John M. Collins - Public Arbitrator
Mark A. Cleland - Non-Public Arbitrator

Concurring Arbitrators:

Harvey Frank
Public Arbitrator, Presiding Chair

Signature Date

John M. Collins
Public Arbitrator

Signature Date



Mark A. Cleland
Non-Public Arbitrator

9/26/05

Signature Date

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