

**Award
NASD Dispute Resolution**

In the Matter of the Arbitration Between:

Names of the Claimants

Hanover Township Police Pension Fund
The Township of Hanover PA

Case Number: 04-01614

Names of the Respondents

Merrill Lynch, Pierce, Fenner & Smith, Inc.
William Bender
Raymond Crisci
Rodney Sennett
Stephen Hudacek

Hearing Site: Philadelphia, PA

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

REPRESENTATION OF PARTIES

Claimants, Hanover Township Police Pension Fund and The Township of Hanover PA, hereinafter collectively referred to as "Claimants", were represented by Christopher B. Jones, Esq., Law Office of Christopher B. Jones, P.C., Scranton, Pennsylvania.

Respondents, Merrill Lynch, Pierce, Fenner & Smith, Inc. ("Merrill Lynch"), William Bender ("Bender"), Raymond Crisci ("Crisci"), Rodney Sennett ("Sennett") and Stephen Hudacek ("Hudacek"), hereinafter collectively referred to as "Respondents", were represented by David C. Franceski, Jr., Esq., Stradley Ronon Stevens & Young, LLP, Philadelphia, Pennsylvania.

CASE INFORMATION

Statement of Claim filed on March 9, 2004.

Claimants signed the Uniform Submission Agreement on April 19, 2004.

Statement of Answer filed by Respondents on July 9, 2004.

A representative of Respondent Merrill Lynch executed the Uniform Submission Agreement on October 26, 2004.

Respondent Bender signed the Uniform Submission Agreement on October 26, 2004.

Respondent Crisci signed the Uniform Submission Agreement on October 26, 2004.

Respondent Sennett signed the Uniform Submission Agreement on October 26, 2004.

Respondent Hudacek signed the Uniform Submission Agreement on October 27, 2004.

CASE SUMMARY

In the Statement of Claim, Claimants asserted the following causes of action, among others: indemnification, fraud, misrepresentation, excessive trading, unsuitable recommendations, securities fraud, negligence, breach of contract, loss of opportunity, conversion, failure to

supervise, *respondeat superior*, violation of the Pennsylvania Unfair Trade Practices and Consumer Protection Laws, violation of the Pennsylvania Securities Act, and breach of fiduciary duty. The causes of action relate to the purchase and sale of various unspecified technology stocks.

Unless specifically admitted in their Statement of Answer, Respondents denied the allegations made in the Statement of Claim and asserted the following defenses, among others: Claimants have not sustained any compensable loss; Claimants' claims are barred by the doctrines of estoppel, laches and *in pari delicto*; authorization; ratification; failure to mitigate damages; Claimants lack standing to bring this arbitration; and Claimants' claims are barred by the statute of limitations.

RELIEF REQUESTED

Claimants in the Statement of Claim requested:

Compensatory Damages	\$ 2,000,000.00
Punitive Damages	\$ 6,000,000.00
Attorneys' Fees	amount unspecified
Other Costs	amount unspecified

Respondents in their Statement of Answer requested that Claimants' claims be denied in their entirety, that they be awarded all costs and attorneys' fees, and that the Arbitration Panel (the "Panel") order the expungement of all reference to this matter from Respondents Bender, Crisci, Sennett, and Hudacek's Central Registration Depository ("CRD") record.

OTHER ISSUES CONSIDERED AND DECIDED

At the hearing on the merits, Respondents made an oral motion for sanctions and motion to dismiss Claimants' claims. The Panel denied both motions.

The parties agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award may be entered.

AWARD

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

1. Claimants' claims are denied in their entirety;
2. The Panel recommends the expungement of all reference to the above-captioned arbitration from Respondent Bender, Crisci, Sennett and Hudacek's registration records maintained by the CRD with the understanding that, pursuant to NASD Notices to Members 99-09 and 99-54, Respondents Bender, Crisci, Sennett, and Hudacek 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, except as Fees are specifically addressed below;
and
4. Any and all relief not specifically addressed herein, including punitive damages, is denied in its entirety.

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	= \$ 600.00
--------------------------	-------------

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. Accordingly, Respondent Merrill Lynch is a party.

Member surcharge	= \$ 3,350.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$ 5,500.00

Forum Fees and Assessments

The Panel has assessed forum fees for each session conducted. 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:

One (1) Pre-hearing session with a single arbitrator @ \$450.00	
Pre-hearing conference: March 21, 2005	= \$ 450.00

One (1) Pre-hearing session with Panel @ \$ 1,200.00	
Pre-hearing conference: October 27, 2004 1 session	= \$ 1,200.00

Ten (10) Hearing sessions @ \$ 1,200.00	
Hearing Dates:	
October 4, 2005	2 sessions
October 5, 2005	2 sessions
October 6, 2005	2 sessions
October 7, 2005	2 sessions
October 18, 2005	2 sessions
<hr/>	

Total Forum Fees	= \$ 13,650.00
------------------	----------------

1. The Panel has assessed \$ 6,825.00 of the forum fees jointly and severally to Claimants.

2. The Panel has assessed \$ 6,825.00 of the forum fees to Respondent Merrill Lynch.

Fee Summary

1. Claimants are jointly and severally assessed and shall pay:

Initial Filing Fee	= \$ 600.00
Forum Fees	= \$ 6,825.00
Total Fees	= \$ 7,425.00
Less payments	= \$ 1,800.00
Balance Due NASD Dispute Resolution	= \$ 5,625.00

2. Respondent Merrill Lynch is assessed and shall pay:


Member Fees	= \$ 9,600.00
Forum Fees	= \$ 6,825.00
Total Fees	= \$ 16,425.00
Less payments	= \$ 9,600.00
Balance Due NASD Dispute Resolution	= \$ 6,825.00

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

ARBITRATION PANEL

James P. O'Donnell	-	Public Arbitrator, Presiding Chairperson
Daniel J. Begley	-	Public Arbitrator, Panelist
Kenneth Joseph Beahan	-	Non-Public Arbitrator, Panelist

Concurring Arbitrators' Signatures


James P. O'Donnell
Public Arbitrator, Presiding Chairperson

10/20/05
Signature Date

Daniel J. Begley
Public Arbitrator, Panelist

Signature Date

Kenneth Joseph Beahan
Non-Public Arbitrator, Panelist

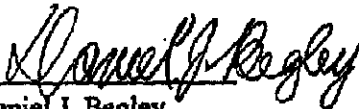
Signature Date

October 20, 2005
Date of Service (For NASD Dispute Resolution office use only)

Concurring Arbitrators' Signatures

James P. O'Donnell
Public Arbitrator, Presiding Chairperson

Signature Date



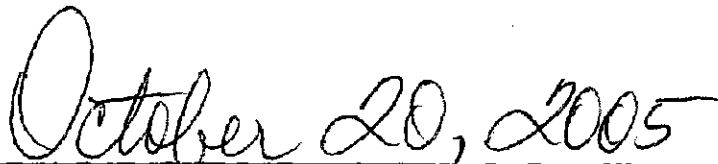
Daniel J. Begley
Public Arbitrator, Panelist



Signature Date

Kenneth Joseph Beahan
Non-Public Arbitrator, Panelist

Signature Date



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

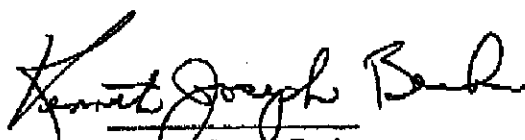
Concurring Arbitrators' Signatures

James P. O'Donnell
Public Arbitrator, Presiding Chairperson

Signature Date

Daniel J. Begley
Public Arbitrator, Panelist

Signature Date



Kenneth Joseph Beahan
Non-Public Arbitrator, Panelist

10/19/05

Signature Date

October 20, 2005

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