

**STIPULATED AWARD
NASD Dispute Resolution**

In the Matter of the Arbitration Between

Names of Claimants

Archie Coran and Katherine Coran

vs.

Case Number: 04-01782

Hearing Site: Detroit, Michigan

Names of Respondents

Merrill Lynch Pierce Fenner & Smith, Inc.,
Anthony Agosta, and
Daniel LaRosa

NATURE OF CASE

Customers v. Member Firm and Associated Persons

REPRESENTATION OF PARTIES

Archie Coran and Katherine Coran ("Claimants") were represented by Drew S. Norton, Esq., Birmingham, Michigan.

Merrill Lynch Pierce Fenner & Smith, Inc., ("Merrill Lynch"), Anthony Agosta ("Agosta") and Daniel La Rosa ("LaRosa"), hereinafter collectively referred to as "Respondents," were represented by W. Scott Turnbull, Esq., Miller Canfield Paddock and Stone PLC, Detroit, Michigan.

CASE INFORMATION

The Statement of Claim was filed on or about March 16, 2003.

The Uniform Submission Agreements of Claimants were signed on or about February 9, 2004.

The Statement of Answer was filed jointly by Respondents on or about May 24, 2004.

The Uniform Submission Agreement of Merrill Lynch was signed on or about April 2, 2004.

CASE SUMMARY

Claimants asserted the following causes of action: breach of contract; breach of fiduciary duty; fraud; negligence; conversion; and violation of state and federal securities laws. The causes of action related to recommendation and sale of investments including Global Crossing, Franklin Biotechnology Discovery Fund, Munder Net Net and Seligman Communications, which Claimants alleged were not suitable for their needs.

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 limitation or other period of limitations; the Statement of Claim and all claims therein are barred by reason of Claimants' negligence, comparative negligence, and contributory negligence; and the Statement of Claim and all claims therein are barred by reason of the doctrines of waiver, estoppel, laches and release.

RELIEF REQUESTED

Claimants requested an award in the amount of:

Actual/Compensatory Damages	\$ 200,000.00
Punitive/Exemplary Damages	\$ 200,000.00
Attorney's Fees	\$ 50,000.00
Interest	Unspecified
Other Costs	Unspecified
Other Monetary Relief	Unspecified

Respondents requested that the claims asserted against them be denied in their entirety, that they be awarded their costs and attorneys' fees, and that the panel recommend that all references to this matter be expunged from the CRD records of Anthony Agosta and Daniel LaRosa.

OTHER ISSUES CONSIDERED & DECIDED

Anthony Agosta and Daniel LaRosa did not file with NASD Dispute Resolution properly executed submissions to arbitration but are required to submit to arbitration pursuant to Rule 10301 of the NASD Code of Arbitration Procedure (the "Code") and having answered the claim, and appeared through counsel at the pre-hearing conference are bound by the determination of the arbitration panel on all issues submitted.

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 Anthony Agosta and Daniel LaRosa to the expungement of all reference to the above-captioned arbitration from all registration records of Respondents maintained by the NASD Central Registration Depository ("CRD").

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 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 Anthony Agosta's and Daniel LaRosa's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 99-09, Agosta and LaRosa 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 attorney fees, is hereby denied 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 persons 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

Forum Fees and Assessments

The 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: October 4, 2004	
<u>Total Forum Fees</u>	<u>= \$1,125.00</u>

The panel has assessed \$562.50 of the forum fees jointly and severally to Archie Coran and Katherine Coran.

The panel has assessed \$562.50 of the forum fees jointly and severally to Merrill Lynch Pierce Fenner & Smith, Inc., Anthony Agosta, and Daniel LaRosa.

FEE SUMMARY

Claimants, Archie Coran and Katherine Coran, are jointly and severally liable for:

Initial Filing Fee	= \$ 300.00
<u>Forum Fees</u>	<u>= \$ 562.50</u>
<u>Total Fees</u>	<u>= \$ 862.50</u>
<u>Less payments</u>	<u>= \$1,425.00</u>
Balance Refunded to Claimants	= \$ 562.50

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

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

Respondents, Merrill Lynch Pierce Fenner & Smith, Inc., Anthony Agosta, and Daniel LaRosa, are jointly and severally liable for:

<u>Forum Fees</u>	<u>= \$ 562.50</u>
<u>Total Fees</u>	<u>= \$ 562.50</u>
<u>Less payments</u>	<u>= \$ 0.00</u>
Balance Due NASD Dispute Resolution	= \$ 562.50

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

ARBITRATION PANEL

David E. Nims, III, Esq.- Public Arbitrator, Presiding Chair
Tracy L. Allen, Esq.- Public Arbitrator
Garrick A. Rollert, J.D - Non-Public Arbitrator

Concurring Arbitrators:

/s/ David E. Mims, III, Esq.
David E. Nims, III, Esq.
Public Arbitrator, Presiding Chair

02/18/2005
Signature Date

/s/ Tracy L. Allen, Esq.
Tracy L. Allen, Esq.
Public Arbitrator

02/15/2005
Signature Date

/s/ Garrick A. Rollert, J.D.
Garrick A. Rollert, J.D
Non-Public Arbitrator

02/18/2005
Signature Date

02/18/2005
Date of Service (For NASD office use only)

NASD Dispute Resolution
Arbitration No. 04-01782
Stipulated Award Page 5 of 5

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David E. Nims, III, Esq.- Public Arbitrator, Presiding Chair
Tracy L. Allen, Esq.- Public Arbitrator
Garrick A. Rollert, J.D - Non-Public Arbitrator

Concurring Arbitrators:



David E. Nims, III, Esq.
Public Arbitrator, Presiding Chair

02/18/05
Signature Date

Tracy L. Allen, Esq.
Public Arbitrator

Signature Date

Garrick A. Rollert, J.D
Non-Public Arbitrator

Signature Date

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NASD Dispute Resolution
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Stipulated Award Page 5 of 5

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Signature Date

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