

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Patrick Strange IRA (Claimant) v. Merrill Lynch, Pierce, Fenner & Smith, Inc. and Daniel E. Donatelli (Respondents)

Case Number: 04-02046

Hearing Site: Cleveland, Ohio

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

REPRESENTATION OF PARTIES

Claimant Patrick Strange IRA ("Strange") hereinafter referred to as "Claimant": James S. Jones, Esq., Poland, OH.

Respondents Merrill Lynch, Pierce, Fenner & Smith, Inc. ("Merrill Lynch") and Daniel E. Donatelli ("Donatelli") hereinafter collectively referred to as "Respondents": Brett S. Krantz, Esq., Ari Jaffe, Esq., Kohrman Jackson & Krantz, PLL, Cleveland, OH.

CASE INFORMATION

Statement of Claim filed on or about: March 23, 2004.

Claimant signed the Uniform Submission Agreement: March 23, 2004.

Joint Statement of Answer filed by Respondents on or about: June 18, 2004.

Respondent Merrill Lynch signed the Uniform Submission Agreement: April 2, 2004.

Respondent Donatelli signed the Uniform Submission Agreement: June 16, 2004.

CASE SUMMARY

Claimant asserted the following causes of action: lack of suitability; breach of fiduciary duty; intentional misrepresentation; failure to supervise; negligence; and omission of facts. The causes of action relate to Genentech, Lucent, Merrill Lynch Pacific Fund, Merrill Lynch Global Allocation Fund, Goldman Sachs Internet Trust, Delphi, and Merrill Lynch Telebras Indexed Prognos.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

Claimant requested compensatory damages in the amount of \$345,000.00; costs, including reasonable attorneys' fees; punitive damages in the amount of \$255,000.00; and any other relief the arbitrators deem just and proper.

Respondents requested that this action be dismissed; costs and expenses, including legal and forum fees, and that this matter be expunged from the records of the National Association of Securities Dealers.

OTHER ISSUES CONSIDERED AND DECIDED

During the hearing, it was agreed that the only issues to be resolved were lack of suitability and failure to supervise.

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.

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. Claimant's claims are denied in their entirety.
2. Any and all relief not specifically addressed herein, including punitive damages, is denied.

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	= \$375.00
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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, Merrill Lynch, Pierce, Fenner & Smith, Inc. is a party.

Member surcharge	= \$2,250.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$4,000.00

Forum Fees and Assessments

The Panel has assessed forum fees for each session conducted. A session is any meeting between the parties and the 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 @ \$1,200.00		= \$1,200.00
Pre-hearing conference:	September 29, 2004	1 session
Seven (7) Hearing sessions @ \$1,200.00		= \$8,400.00
Hearing Dates:	January 31, 2005	2 sessions
	February 1, 2005	2 sessions
	February 2, 2005	2 sessions
	May 5, 2005	1 session
Total Forum Fees		= \$9,600.00

1. The Panel has assessed \$4,800.00 of the forum fees against Claimant.
2. The Panel has assessed \$4,800.00 of the forum fees jointly and severally against Respondents.

Fee Summary

1. Claimant is solely liable for:

Initial Filing Fee	= \$ 375.00
Forum Fees	= \$4,800.00
Total Fees	= \$5,175.00
Less payments	= \$1,575.00
Balance Due NASD Dispute Resolution	= \$3,600.00
2. Respondent Merrill Lynch is solely liable for:

Member Fees	= \$7,000.00
Total Fees	= \$7,000.00
Less payments	= \$7,000.00
Balance Due NASD Dispute Resolution	= \$ 0.00
3. Respondents are jointly and severally liable for:

Forum Fees	= \$4,800.00
Total Fees	= \$4,800.00
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$4,800.00

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

ARBITRATION PANEL

Thomas H. Barnard, Jr., Esq.	-	Public Arbitrator, Presiding Chairperson
Daniel G. Zeiser, Esq.	-	Public Arbitrator
Terrence Patrick McHugh	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

I, the undersigned arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument which is my award.



Thomas H. Barnard, Jr., Esq.
Public Arbitrator, Presiding Chairperson

5/11/05
Signature Date

Daniel G. Zeiser, Esq.
Public Arbitrator

Signature Date

Terrence Patrick McHugh
Non-Public Arbitrator

Signature Date

May 17, 2005
Date of Service (For NASD Dispute Resolution use only)

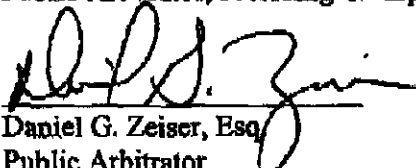
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Thomas H. Barnard, Jr., Esq.
Public Arbitrator, Presiding Chairperson



Daniel G. Zeiser, Esq.
Public Arbitrator

Signature Date

5/17/05

Signature Date

Terrence Patrick McHugh
Non-Public Arbitrator

Signature Date

MAY 17, 2005

Date of Service (For NASD Dispute Resolution use only)

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