

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimant
Anthony C. Adonizio, Jr.

Case Number: 04-02051

Name of the Respondent
Merrill Lynch, Pierce, Fenner & Smith, Inc.

Hearing Site: Philadelphia, PA

Nature of the Dispute: Customer vs. Member.

REPRESENTATION OF PARTIES

Claimant, Anthony C. Adonizio, Jr., hereinafter referred to as "Claimant", was represented by Catherine Humphrey Bennett, Esq., Anapol, Schwartz, Weiss, Cohan, Feldman & Smalley, P.C., Philadelphia, Pennsylvania.

Respondent, Merrill Lynch, Pierce, Fenner & Smith, Inc., hereinafter referred to as "Respondent", was represented by Lawrence Ross, Esq., Bressler, Amery & Ross, P.C., New York, New York.

CASE INFORMATION

Statement of Claim filed on March 26, 2004.

Claimant signed the Uniform Submission Agreement on March 20, 2004.

Statement of Answer filed by Respondent on June 8, 2004.

A representative of Respondent Merrill Lynch executed an undated Uniform Submission Agreement.

CASE SUMMARY

In the Statement of Claim, Claimant asserted the following causes of action, among others: fraudulent misrepresentation, non-disclosure, failure to supervise, negligence, breach of contract, violation of the Pennsylvania Unfair Trade Practices and Consumer Protection Laws, and breach of fiduciary duty. The causes of action relate to the purchase and sale of Internet Capital Group, Inc. technology stock.

Unless specifically admitted in its Statement of Answer, Respondent denied the allegations made in the Statement of Claim and asserted the following defenses, among others: failure to state a claim upon which relief may be granted; contributory negligence; Claimant's claims are barred by the doctrines of waiver, estoppel, ratification and laches; failure to mitigate damages; Claimant's claims are barred by the doctrine of *in pari delicto*; there is no private right of action for violation of NASD rules; and Claimant's claims are barred by the statute of limitations.

RELIEF REQUESTED

Claimant in the Statement of Claim requested:

Compensatory Damages	\$ 36,138.00
Punitive Damages	\$ 72,276.00
Attorneys' Fees	amount unspecified
Interest	amount unspecified
Other Costs	amount unspecified

Respondent requested that the Statement of Claim be dismissed with prejudice.

OTHER ISSUES CONSIDERED AND DECIDED

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. Respondent is liable to and shall pay to Claimant the sum of \$11,000.00 in compensatory damages;
2. The parties shall bear their respective costs, except as Fees are specifically addressed below; and
3. 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 = \$ 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. Accordingly, Respondent Merrill Lynch is a party.

Member surcharge = \$ 1,700.00

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

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 Panel @ \$ 1,125.00	= \$ 1,125.00
Pre-hearing conferences: October 8, 2004 1 session	
Four (4) Hearing sessions @ \$ 1,125.00	= \$ 4,500.00
Hearing Dates: September 27, 2005 2 sessions	
September 28, 2005 2 sessions	
<hr/> Total Forum Fees	<hr/> = \$ 5,625.00

1. The Panel has assessed \$ 2,812.50 of the forum fees to Claimant.
2. The Panel has assessed \$ 2,812.50 of the forum fees to Respondent.

Fee Summary

1. Claimant is assessed and shall pay:	
Initial Filing Fee	= \$ 300.00
Forum Fees	= \$ 2,812.50
Total Fees	= \$ 3,112.50
Less payments	= \$ 1,425.00
Balance Due NASD Dispute Resolution	= \$ 1,687.50
2. Respondent Merrill Lynch is assessed and shall pay:	
Member Fees	= \$ 5,200.00
Forum Fees	= \$ 2,812.50
Total Fees	= \$ 8,012.50
Less payments	= \$ 5,200.00
Balance Due NASD Dispute Resolution	= \$ 2,812.50

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

ARBITRATION PANEL

Sheldon Seligsohn, Esq.	-	Public Arbitrator, Presiding Chairperson
Albert Mancini, Jr.	-	Public Arbitrator, Panelist
Alan M. Schankel	-	Non-Public Arbitrator, Panelist

Concurring Arbitrators' Signatures



Sheldon Seligsohn, Esq.
Public Arbitrator, Presiding Chairperson

9/29/05

Signature Date

Albert Mancini, Jr.
Public Arbitrator, Panelist

Signature Date

Alan M. Schankel
Non-Public Arbitrator, Panelist

Signature Date

September 30, 2005
Date of Service (For NASD Dispute Resolution office use only)

Concurring Arbitrators' Signatures

Sheldon Seligsohn, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

Albert Mancini, Jr.
Albert Mancini, Jr.
Public Arbitrator, Panelist

29 SEPT. 2005
Signature Date

Alan M. Schankel
Non-Public Arbitrator, Panelist

Signature Date

September 30, 2005
Date of Service (For NASD Dispute Resolution office use only)

Concurring Arbitrators' Signatures

Sheldon Seligsohn, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

Albert Mancini, Jr.
Public Arbitrator, Panelist

Signature Date



Alan M. Schankel
Non-Public Arbitrator, Panelist

9/30/05
Signature Date

September 30, 2005
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