

Stipulated Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Rosario Tropeano and Concetta Tropeano (Claimants) v. Merrill Lynch, Pierce, Fenner & Smith Inc. and Harvey Bell (Respondents)

Case Number: 04-02132

Hearing Site: Newark, New Jersey

Nature of the Dispute: Customers v. Member and Associated Person

REPRESENTATION OF PARTIES

Claimants Rosario Tropeano ("R. Tropeano") and Concetta Tropeano ("C. Tropeano") hereinafter collectively referred to as "Claimants": Chad N. Cagan, Esq., Sonnenblick, Parker & Selvers, Freehold, NJ.

Respondents Merrill Lynch, Pierce, Fenner & Smith Inc. ("Merrill Lynch") and Harvey Bell ("Bell") hereinafter collectively referred to as "Respondents": Stuart T. Rebish, Esq., Merrill Lynch, Pierce, Fenner & Smith Inc., New York, NY.

CASE INFORMATION

Statement of Claim filed on or about: March 22, 2004.

R. Tropeano signed the Uniform Submission Agreement: March 22, 2004.

C. Tropeano signed the Uniform Submission Agreement: March 22, 2004.

Joint Statement of Answer filed by Respondents on or about: June 24, 2004.

Merrill Lynch signed the Uniform Submission Agreement: July 6, 2004.

Bell signed the Uniform Submission Agreement: June 24, 2004.

CASE SUMMARY

Claimants asserted the following causes of action: unsuitable investment recommendations; breach of fiduciary duty; fraud; misrepresentation; securities law and SRO rule violations; violations of the New Jersey Securities Act; negligence; breach of contract; failure to supervise; respondeat superior; control person liability; and failure to supervise. Claimants' allegations relate to their purchases of the Merrill Lynch High Yield Corporate Bond Fund.

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

RELIEF REQUESTED

Claimants requested compensatory damages in the amount of \$50,000.00; interest; punitive damages to be determined by the Panel; attorneys' fees; costs; and other relief as may be deemed

appropriate by the Panel.

Respondents requested dismissal of the Statement of Claim in its entirety as well as expungement of all references to the Statement of Claim and the allegations therein from Bell's Central Registration Depository ("CRD") record.

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

The parties entered into an agreement to present to the Panel a Stipulated Award. Now, in lieu of a hearing and upon motion of both parties for an entry of an award, the written stipulation thereto, the Panel grants the motion and enters this award granting the following relief:

- 1) Claimants' claims are dismissed in their entirety.
- 2) The Panel recommends the expungement of all references to the above-captioned arbitration from Respondent Harvey Bell's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to Notices to Members 99-09 and 99-54, Respondent Harvey Bell must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.
- 3) Any and all relief not specifically addressed herein 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	= \$ 175.00
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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 persons at the time of the events giving rise to the dispute. In this matter, Merrill Lynch, Pierce, Fenner & Smith Inc. is a party.

Member Surcharge	= \$ 875.00
Pre-Hearing Process Fee	= \$ 750.00
Hearing Process Fee	= \$1,000.00

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. Forum fees associated with these proceedings are:

Two (2) Pre-hearing conference sessions with a single arbitrator @ \$450.00 per session
= \$ 900.00

Pre-hearing conferences: September 14, 2004 1 session
January 18, 2005 1 session

Total Forum Fees = \$ 900.00

1. The Panel has assessed \$450.00 of the forum fees, jointly and severally, against the Claimants.
2. The Panel has assessed \$450.00 of the forum fees, jointly and severally, against the Respondents.

Fee Summary

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| 1. | Claimants are jointly and severally liable for: | |
| | Initial Filing Fee | = \$ 175.00 |
| | <u>Forum Fees</u> | = \$ 450.00 |
| | Total Fees | = \$ 625.00 |
| | <u>Less payments</u> | = \$ 625.00 |
| | Balance Due NASD Dispute Resolution | = \$ 0.00 |
| 2. | Respondent Merrill Lynch is solely liable for: | |
| | Member Fees | = \$2,625.00 |
| | <u>Less payments</u> | = \$2,625.00 |
| | Balance Due NASD Dispute Resolution | = \$ 0.00 |
| 3. | Respondents Merrill Lynch and Bell are jointly and severally liable for: | |
| | <u>Forum Fees</u> | = \$ 450.00 |
| | Total Fees | = \$ 450.00 |
| | <u>Less payments</u> | = \$ 0.00 |
| | Balance Due NASD Dispute Resolution | = \$ 450.00 |

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

ARBITRATION PANEL

Cheryl H. Agris, PhD

Sole Public Arbitrator

Arbitrator's Signature

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.


Cheryl H. Agris, PhD
Public Arbitrator


Date

February 2, 2006

Date of Service (For NASD office use only)