

**Stipulated Award
NASD Dispute Resolution**

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In the Matter of the Arbitration Between:

Robert Paul, Claimant v. Peter Shieh and Merrill Lynch Pierce Fenner & Smith Incorporated, Respondents

Case Number: 04-02222

Hearing Site: San Francisco, California

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

REPRESENTATION OF PARTIES

For Claimant:

James Jay Seltzer, Esq.
Law Offices of James J. Seltzer
Emeryville, California

For Respondents:

Kenneth C. Mennemeier, Esq.
Mennemeier, Glassman & Stroud
LLP
Sacramento, California

CASE INFORMATION

Statement of Claim filed: March 30, 2004

Claimant's Uniform Submission Agreement signed: March 19, 2004

Joint Statement of Answer filed by Respondents: August 9, 2004

Respondent Peter C. Shieh's Uniform Submission Agreement signed: July 14, 2004

Respondent Merrill Lynch Pierce Fenner & Smith Incorporated's Uniform Submission Agreement signed: June 23, 2004

CASE SUMMARY

Claimant alleged violation of NASD rules of conduct, professional negligence, breach of fiduciary duties, negligent misrepresentation, negligent failure to supervise, breach of contract, unfair business practices, and violation of the Consumer Legal Remedies Act. Claimant's allegations involved various unspecified securities.

Respondents denied the allegations of wrongdoing set forth in Claimant's Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

Claimant requested \$90,000.00 in compensatory damages, disgorgement, pre-judgment interest, and costs, including attorney's fees.

Respondents requested dismissal of Claimant's Statement of Claim in its entirety, expungement of this matter from Respondent Peter Shieh's registration records, and costs.

OTHER ISSUES CONSIDERED AND DECIDED

On July 10, 2006, Claimant notified NASD that the parties reached a settlement agreement and that the parties would be requesting a Stipulated Award.

On July 26, 2006, Respondents submitted the parties' stipulated request for an order recommending expungement of this matter from Respondent Peter Shieh's CRD records. The parties also requested that this arbitration matter be dismissed with prejudice. On August 8, 2006, the Panel deliberated via conference call and decided to request a declaration from Claimant, signed by both counsel, supporting the parties' assertion that "good cause" exists for expungement before deciding the parties' request. The Panel also requested the precise terms of the parties' settlement agreement. On August 24, 2006, Respondents provided the documents and information requested by the Panel. On August 31, 2006, the Panel deliberated again via conference call and decided to grant the parties' stipulated request.

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

STIPULATED AWARD

After considering the parties' Stipulation and documentary support, the Panel decided in full and final resolution of the issues submitted for determination as follows:

- 1) Claimant's claims are dismissed with prejudice.
- 2) The Panel recommends the expungement of all references to the above-captioned arbitration from Respondent Peter Shieh's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 99-09 and 99-54, Respondent Peter Shieh 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, including attorney's fees.
- 4) All other relief requested and not expressly granted is denied.

FEES

Pursuant to the NASD Code of Arbitration Procedure, the following fees are assessed:

Filing Fees

NASD Dispute Resolution received or will collect the non-refundable filing fees for each claim as follows:

Initial claim filing fee	= \$ 225.00
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Member Fees

Member fees are assessed to each member firm that is either a party in the matter or an employer of a respondent associated person at the time of the events that gave rise to the dispute, claim, or controversy. Accordingly, the member firm Merrill Lynch Pierce Fenner & Smith Incorporated is a party and the following fees are assessed:

Member Surcharge	= \$ 1,100.00
Pre-Hearing Process Fee	= \$ 750.00
Hearing Process Fee	= \$ 1,700.00
Total Member Fees	= \$ 3,550.00

Forum Fees and Assessments

The Panel assessed forum fees for each session conducted or each decision rendered on a discovery-related motion decided on the papers. 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:

(1) Decision on a discovery-related motion on the papers
with one arbitrator @ \$200.00 = \$ 200.00
Respondents submitted one discovery-related motion

(1) Pre-hearing conference session with the Panel @ \$750.00/session = \$ 750.00
Pre-hearing conference: August 16, 2005 1 session

Total Forum Fees = \$ 950.00

1. The Panel assessed \$575.00 of the forum fees to Claimant.
2. The Panel assessed \$375.00 of the forum fees jointly and severally to Respondents.

Fee Summary

1. Claimant is charged with the following fees and costs:

Initial Filing Fee	= \$ 225.00
Forum Fees	= \$ 575.00
Total Fees	= \$ 800.00
<u>Less payments</u>	<u>= \$(1,250.00)</u>
Refund Due	= \$ (450.00)

2. Respondent Merrill Lynch Pierce Fenner & Smith Incorporated is charged with the following fees and costs:

Member Fees	= \$ 3,550.00
<u>Less payments</u>	<u>= \$(3,550.00)</u>
Balance Due NASD Dispute Resolution	= \$ 0.00

3. Respondents Peter Shieh and Merrill Lynch Pierce Fenner & Smith Incorporated are charged jointly and severally with the following fees and costs:

Forum Fees	= \$ 375.00
<u>Less payments</u>	<u>= \$ (0.00)</u>
Balance Due NASD Dispute Resolution	= \$ 375.00

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

ARBITRATION PANEL

William W. Haskell	-	Public Arbitrator, Presiding Chair
Joseph Berzok	-	Public Arbitrator
Jarrott T. Miller	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures


William W. Haskell
Chair, Public Arbitrator

9/7/06
Signature Date

Joseph Berzok
Public Arbitrator

Signature Date

Jarrott T. Miller
Non-Public Arbitrator

Signature Date

9/8/06
Date of Service
(NASD Use Only)

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