

**Stipulated Award
NASD Dispute Resolution**

In the Matter of the Arbitration Between:

Names of the Claimants
Donald and Barbara May

Case Number: 04-02258

Names of the Respondents
Merrill Lynch, Pierce, Fenner & Smith, Inc.
Martin Capra

Hearing Site: Raleigh, NC

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

REPRESENTATION OF PARTIES

Claimants, Donald and Barbara May, hereinafter collectively referred to as "Claimants", were represented by Sarah G. Anderson, Esq., Clawson & Staubes, LLC, Charleston, South Carolina.

Respondents, Merrill Lynch, Pierce, Fenner & Smith, Inc. ("Merrill Lynch") and Martin Capra ("Capra"), hereinafter collectively referred to as "Respondents", were represented by Samuel A. Turvey, Esq., Krebsbach & Snyder, P.C., New York, New York.

CASE INFORMATION

Statement of Claim filed on April 1, 2004.

Claimants signed the Uniform Submission Agreement on March 26, 2004.

Statement of Answer filed by Respondents on August 12, 2004.

A representative of Respondent Merrill Lynch executed the Uniform Submission Agreement on June 10, 2004.

Respondent Capra signed the Uniform Submission Agreement on November 25, 2004.

CASE SUMMARY

Claimants asserted the following causes of action: failure to follow instructions, unsuitability, breach of contract, failure to supervise, breach of fiduciary duty, negligence, and fraud. The causes of action relate to the purchase and sale of various unspecified securities.

Unless specifically admitted in their Statement of Answer, Respondents denied all allegations of wrongdoing set forth in Claimants' Statement of Claim and set forth the following defenses, among others: failure to state a claim upon which relief may be granted; Claimants' claims are barred by the doctrines of estoppel, waiver, and laches; ratification; Claimants' claims are barred by the statute of limitations; and failure to mitigate damages.

RELIEF REQUESTED

Claimants requested compensatory damages in an amount to be proved at trial that is between

\$200,000.00 and \$499,998.00; punitive damages; interest; attorneys' fees; and other costs.

Respondents requested that the Statement of Claim be dismissed in all respects, that all disbursements and costs be assessed against Claimants, and that the Arbitration Panel (the "Panel") order the expungement of all reference to this matter from Respondent Capra's Central Registration Depository ("CRD") record.

OTHER ISSUES CONSIDERED AND DECIDED

On or about July 15, 2005, Claimants and Respondent Merrill Lynch notified NASD Dispute Resolution that the parties settled the matter. On July 19, 2005, Respondents notified NASD Dispute Resolution that the parties agreed to cooperate in pursuit of the entry of this Stipulated Award.

The parties have agreed that the Stipulated Award in this matter may be executed in counterpart copies.

AWARD

Pursuant to the above, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. The parties have amicably resolved their differences and have requested this Stipulated Award;
2. The claims asserted by Claimants against Respondents are dismissed with prejudice;
3. The Panel recommends the expungement of all reference to the above-captioned arbitration from Respondent Capra's registration records maintained by the CRD with the understanding that, pursuant to NASD Notices to Members 99-09 and 99-54, Respondent Capra must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive;
4. That each party shall bear its own costs and expenses, including attorneys' fees, except as Fees are specifically addressed below; and
5. That 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
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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, Respondent Merrill Lynch is a party.

Member surcharge	= \$ 1,700.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$ 2,750.00

Three-Day Cancellation Fees

Fees apply when a hearing on the merits is postponed or settled within three business days before the start of a scheduled hearing session:

July 18-22, 2005, adjournment by Respondents	= \$ 300.00
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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 @ \$ 1,125.00	= \$ 1,125.00
Pre-hearing conference: November 12, 2004 1 session	
Total Forum Fees	= \$ 1,125.00

1. The Panel has assessed \$ 562.50 of the forum fees jointly and severally to Claimants.
2. The Panel has assessed \$ 562.50 of the forum fees jointly and severally to Respondents.

Fee Summary

1. Claimants are jointly and severally assessed and shall pay:

Initial Filing Fee	= \$ 300.00
Three-Day Cancellation Fee	= \$ 150.00
Forum Fees	= \$ 562.50
Remainder of Hearings Session Deposit Retained Pursuant to NASD Code of Arbitration Rule 10332 (f)	= \$ 562.50
Total Fees	= \$ 1,575.00
Less payments	= \$ 1,575.00
Balance Due NASD Dispute Resolution	= \$ 0.00
2. Respondent Merrill Lynch is assessed and shall pay:

Member Fees	= \$ 5,200.00
Total Fees	= \$ 5,200.00
Less payments	= \$ 5,200.00

Balance Due NASD Dispute Resolution = \$ 0.00

3. Respondents are jointly and severally assessed and shall pay:

Three-Day Cancellation Fee = \$ 150.00

Forum Fees = \$ 562.50

Total Fees = \$ 712.50

Less payments = \$ 0.00

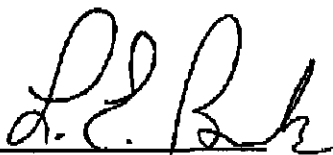
Balance Due NASD Dispute Resolution = \$ 712.50

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

ARBITRATION PANEL

Leonard E. Benade	-	Public Arbitrator, Presiding Chairperson
Karen E. Sapp, Esq.	-	Public Arbitrator, Panelist
Donald Cornelius Morrison, Sr.	-	Non-Public Arbitrator, Panelist

Concurring Arbitrators' Signatures



Leonard E. Benade
Public Arbitrator, Presiding Chairperson

8/18/05
Signature Date

Karen E. Sapp, Esq.
Public Arbitrator, Panelist

Signature Date

Donald Cornelius Morrison, Sr.
Non-Public Arbitrator, Panelist


Signature Date

August 18, 2005
Date of Service (For NASD Dispute Resolution office use only)

Concurring Arbitrators' Signatures

Leonard E. Benade
Public Arbitrator, Presiding Chairperson

Signature Date


Karen E. Sapp, Esq.
Public Arbitrator, Panelist

8/10/05
Signature Date

Donald Cornelius Morrison, Sr.
Non-Public Arbitrator, Panelist

Signature Date

August 18, 2005
Date of Service (For NASD Dispute Resolution office use only)

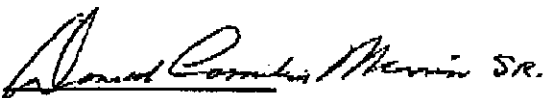
Concurring Arbitrators' Signatures

Leonard E. Benade
Public Arbitrator, Presiding Chairperson

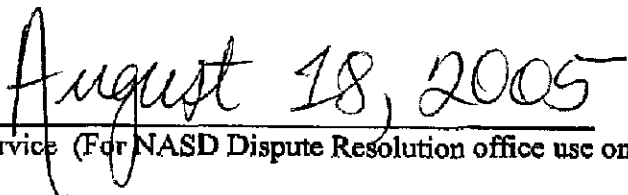
Signature Date

Karen E. Sapp, Esq.
Public Arbitrator, Panelist

Signature Date


Donald Cornelius Morrison, Sr.
Non-Public Arbitrator, Panelist

8-13-05
Signature Date



Date of Service (For NASD Dispute Resolution office use only)