

**Stipulated Award
NASD Dispute Resolution**

In the Matter of the Arbitration Between

Claimant
Margo Wilkinson

and

Case Number: 04-02275
Hearing Site: Houston, Texas

Respondents
Merrill Lynch, Pierce, Fenner & Smith, Inc.,
and Raymond A. Deragon

NATURE OF CASE

Customer v. Member Firm and Associated Person

REPRESENTATION OF PARTIES

Margo Wilkinson ("Claimant") was represented by Brian E. Bro, Esq., Law Offices of Brian E. Bro, Houston, Texas.

Merrill Lynch, Pierce, Fenner & Smith, Inc. ("Merrill Lynch") and Raymond A. Deragon ("Deragon"), hereinafter collectively referred to as "Respondents," were represented by Jack D. Ballard, Esq., The Ballard Law Firm, Houston, Texas.

CASE INFORMATION

The Statement of Claim was filed on or about March 16, 2004. The Submission Agreement of Claimant was signed on or about March 16, 2004.

The Joint Statement of Answer was filed on or about July 1, 2004. The Submission Agreement of Respondent, Merrill Lynch, was signed on or about May 24, 2004. The Submission Agreement of Respondent, Raymond A. Deragon, was signed on or about June 23, 2004.

CASE SUMMARY

Claimant asserted the following causes of action: unsuitability, negligence, misrepresentations, omissions, failure to supervise, fraud and breach of fiduciary duty. The causes of action related various transactions in Claimant's accounts at Merrill Lynch.

Unless specifically admitted in their Answer, Respondents denied the allegations of wrongdoing set forth in the Statement of Claim and asserted the following defenses: (i) to the extent Claimant incurred any damages, such damages were attributable to market conditions and not to any acts or omissions of Respondents; (ii) estoppel (iii) waiver; (iv) ratification; (v) commercial reasonableness; (vi) assumption of risks; (vii) limitations; (viii) compliance with Exchange rules and regulations; (ix) failure to mitigate; (x) contributory negligence; and (xi) that an award of punitive or exemplary damages would be in violation of the United States and Texas Constitutions.

RELIEF REQUESTED

Claimant requested an award in the amount of:

Actual/Compensatory Damages	\$60,000.00
Punitive/Exemplary Damages	\$40,000.00
Interest	Unspecified
Attorneys' Fees	Unspecified
Other Costs	Unspecified
Other Monetary Relief	Unspecified

Respondents requested that the claims asserted against them be denied in their entirety and that they be awarded their costs, attorneys' fees and further request the expungement of Claimant's complaint from the CRD record of Raymond A. Deragon.

OTHER ISSUES CONSIDERED AND DECIDED

On or about May 23, 2005, Claimant and Respondents reached an agreement to settle the claims asserted in the arbitration proceeding.

In light of the settlement of the claims, Claimant and Respondents stipulated that all claims asserted in this case be dismissed with prejudice and requested the expungement of Claimant's complaint from the CRD record of Raymond A. Deragon.

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. In either case, the parties have agreed to receive conformed copies of the award while the original remains on file with the NASD Dispute Resolution ("NASD").

AWARD

Pursuant to the parties' agreement, but without making any findings of fact or conclusions of law, the undersigned arbitrators order as follows:

1. All claims in this case are dismissed with prejudice pursuant to the parties' settlement agreement;
2. That other than NASD Fees which are specified below, the parties shall each bear their own costs and expenses, including attorneys' fees, incurred in this matter;
3. The Panel recommends the expungement of all reference to the above-captioned arbitration from Respondent, Raymond A. Deragon's, registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to the NASD Notice to Members 99-09, Respondent, Raymond A. Deragon, must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive; and
4. That any relief not specifically enumerated, including punitive damages and attorneys' fees, is hereby denied with prejudice.

FEES

Pursuant to the Code the following fees are assessed:

Filing Fees

NASD Dispute Resolution, Inc. will retain or collect the non-refundable filing fees for each claim:

Initial claim filing fee = \$ 225.00

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. In this matter, the member firm is Merrill Lynch, Pierce, Fenner & Smith, Inc.

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

Forum Fees and Assessments

The Arbitration 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:

One (1) Pre-hearing conference session with the Panel @ \$750/session	= \$ 750.00
Pre-hearing conference: October 15, 2004 1 session	

<u>Total Forum Fees</u>	<u>= \$ 750.00</u>
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The Arbitration Panel has assessed \$ 375.00 of the forum fees against Claimant.

The Arbitration Panel has assessed \$ 375.00 of the forum fees jointly and severally against Merrill Lynch and Deragon.

Pursuant to Rule 10332(g) of NASD Code of Arbitration Procedures: *Any matter submitted and thereafter settled or withdrawn subsequent to the commencement of the first hearing session, including a pre-hearing conference with an arbitrator, shall be subject to an assessment of forum fees and costs incurred pursuant to Rules 10319, 10321, 10322, and 10326 based on hearing sessions held and scheduled within eight business days after the Association receives notice that the matter has been settled or withdrawn. The arbitrator(s) shall determine by whom such forum fees and costs shall be borne. As NASD Dispute Resolution received notice of the settlement within eight business days of the first scheduled hearing, \$375.00 of the Claimant's remaining hearing session deposit is retained.*

Fee Summary

Claimant, Margo Wilkinson, be and hereby is liable for:

Initial Filing Fee	= \$ 225.00
Hearing Session Deposit Retained	= \$ 375.00
<u>Forum Fee</u>	<u>= \$ 375.00</u>
Total Fees	= \$ 975.00
<u>Less payments</u>	<u>= \$ 975.00</u>
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondent, Merrill Lynch, is liable for:

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

Respondents Merrill Lynch and Raymond A. Deragon, are jointly and severally liable for:

Forum Fees	= \$ 375.00
Total Fees	= \$ 375.00
Less Payments	= \$ 0.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 375.00

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

ARBITRATION PANEL

William A. Allen, CPA, Esq. - Public Arbitrator, Presiding Chair
Sherry R. Wetsch, Esq. - Public Arbitrator
John F. Hinrichs - Industry Arbitrator

Concurring Arbitrators'

/s/ William A. Allen, CPA, Esq.
William A. Allen, CPA, Esq.
Public Arbitrator, Presiding Chair

June 9, 2005
Signature Date

/s/ Sherry R. Wetsch, Esq.
Sherry R. Wetsch, Esq.
Public Arbitrator

June 13, 2005
Signature Date

/s/ John F. Hinrichs
John F. Hinrichs
Non-Public Arbitrator

June 9, 2005
Signature Date

June 13, 2005
Date of Service (For NASD office use only)

NASD Dispute Resolution
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Respondents Merrill Lynch and Raymond A. Deragon, are jointly and severally liable for:


<u>Forum Fees</u>	= \$ 375.00
<u>Total Fees</u>	= \$ 375.00
<u>Less Payments</u>	= \$ 0.00
<u>Balance Due NASD Dispute Resolution, Inc.</u>	= \$ 375.00

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

ARBITRATION PANEL

William A. Allen, CPA, Esq. - Public Arbitrator, Presiding Chair
Sherry R. Welsch, Esq. - Public Arbitrator
John F. Hinrichs - Industry Arbitrator

Concurring Arbitrators:



William A. Allen, CPA, Esq.
Public Arbitrator, Presiding Chair

6/9/05

Signature Date

Sherry R. Welsch, Esq.
Public Arbitrator

Signature Date

John F. Hinrichs
Non-Public Arbitrator

Signature Date

Date of Service (For NASD office use only)

NASD Dispute Resolution
Arbitration No. 04-02273
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Respondents Merrill Lynch and Raymond A. Deragon, are jointly and severally liable for:

<u>Forum Fees</u>	= \$ 375.00
<u>Total Fees</u>	= \$ 375.00
<u>Less Payments</u>	= \$ 0.00
<u>Balance Due NASD Dispute Resolution, Inc.</u>	= \$ 375.00

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

ARBITRATION PANEL

William A. Allen, CPA, Esq. - Public Arbitrator, Presiding Chair
Sherry R. Wetsch, Esq. - Public Arbitrator
John F. Hinrichs - Industry Arbitrator

Concurring Arbitrators:

William A. Allen, CPA, Esq.
Public Arbitrator, Presiding Chair

Signature Date

SR Wetsch
Sherry R. Wetsch, Esq.
Public Arbitrator

6-13-05
Signature Date

John F. Hinrichs
Non-Public Arbitrator

Signature Date

Date of Service (For NASD office use only)

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Arbitration No. 04-02275
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Respondents Merrill Lynch and Raymond A. Ceraigon, are jointly and severally liable for:

Forum Fees	= \$ 375.00
Total Fees	= \$ 375.00
Less Payments	= \$ 0.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 375.00

All balances are payable to NASD Dispute Resolution and are due upon receipt pursuant to Rule 10330(1) of the Code.

ARBITRATION PANEL

William A. Allen, CPA, Esq. - Public Arbitrator, Presiding Chair
Sherry R. Wetsch, Esq. - Public Arbitrator
John F. Hinrichs - Industry Arbitrator

Concurring Arbitrators

William A. Allen, CPA, Esq.
Public Arbitrator, Presiding Chair

Signature Date

Sherry R. Wetsch, Esq.,
Public Arbitrator

Signature Date

John F. Hinrichs
John F. Hinrichs
Non-Public Arbitrator

09 July 2005
Signature Date

Date of Service (For NASD office use only)