

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Names of the Claimants

Robert R. Hoffman, Jr.
Kathleen A. Hoffman

Case Number: 04-02808

Names of the Respondents

Merrill Lynch, Pierce, Fenner & Smith, Inc.
Larry Goehring

Hearing Site: Pittsburgh, Pennsylvania

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

REPRESENTATION OF PARTIES

Claimants, Robert R. Hoffman, Jr. and Kathleen A. Hoffman, hereinafter collectively referred to as "Claimants", were represented by Peter B. Skeel, Esq., Summers, McDonnell, Walsh & Skeel, L.L.P., Pittsburgh, Pennsylvania.

Respondents, Merrill Lynch, Pierce, Fenner & Smith, Inc. ("Merrill Lynch") and Larry Goehring ("Goehring"), hereinafter collectively referred to as "Respondents", were represented by Stuart T. Rebish, Esq., Office of General Counsel, Merrill Lynch, Pierce, Fenner & Smith, Inc., New York, New York.

CASE INFORMATION

Statement of Claim filed on April 8, 2004.

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

Statement of Answer filed by Respondents on July 30, 2004.

Robert E. Goldberg, Director and Senior Counsel, executed Respondent Merrill Lynch's Uniform Submission Agreement on July 30, 2004.

Respondent Goehring signed the Uniform Submission Agreement on June 1, 2004.

CASE SUMMARY

Claimants asserted the following causes of action, among others: breach of contract, negligence, breach of fiduciary duty and failure to supervise. The causes of action relate to the purchase and sale of mutual funds including Merrill Lynch Global Tech Fund Class D, Internet Port 2000 Series, Blackrock Small Cap Growth Equity Portfolio Class C, and Aim Value Fund Class A.

Unless specifically admitted in their Answer, Respondents 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, claims are barred by the applicable statutes of limitations, estoppel, waiver, ratification, laches, proximate cause, and failure to mitigate damages.

RELIEF REQUESTED

Claimants in their Statement of Claim requested:

Compensatory Damages

\$ 68,403.00

Respondents in their Statement of Answer requested that the Statement of Claim be dismissed in its entirety, expungement of all references to the Statement of Claim and the allegations therein from Respondent Goehring's Central Registration Depository ("CRD") record, that they be awarded costs, and that reasonable attorney's fees be assessed against the Claimant.

OTHER ISSUES CONSIDERED AND DECIDED

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

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. Claimants' claims are dismissed with prejudice;
2. Respondents' request for expungement of Respondent Goehring's CRD record is denied with prejudice;
3. The parties shall bear their respective costs, except as Fees are specifically addressed below;
and
4. Any and all relief not specifically addressed herein 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 = \$ 225.00

Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firms that employed the associated person(s) at the time of the events giving rise to the dispute. Accordingly, Respondent Merrill Lynch is a party.

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 has assessed forum fees for each session conducted. 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:

Two (2) Pre-hearing sessions with Panel @ \$ 750.00	= \$ 1,500.00
Pre-hearing conferences: November 10, 2004 1 session	
March 14, 2006 1 session	
<hr/>	
Total Forum Fees	= \$ 1,500.00

1. The Panel has assessed \$ 750.00 of the forum fees jointly and severally to Claimants.
2. The Panel has assessed \$ 750.00 of the forum fees jointly and severally to Respondents.

SEE SUMMARY

1. Claimants are jointly and severally assessed and shall pay the following fees:

Initial Filing Fee	= \$ 225.00
Forum Fees	= \$ 750.00
Total Fees	= \$ 975.00
Less payments	= \$ 600.00
Balance Due NASD Dispute Resolution	= \$ 375.00

2. Respondent Merrill Lynch is assessed and shall pay the following fees:

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

3. Respondents are jointly and severally assessed and shall pay the following fees:

Forum Fees	= \$ 750.00
Total Fees	= \$ 750.00
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 750.00

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

ARBITRATION PANEL

James J. Puhala, Esq.	-	Public Arbitrator, Presiding Chairperson
Robert Charkovsky, Esq.	-	Public Arbitrator, Panelist
Paul H. McKenna	-	Non-Public Arbitrator, Panelist

Concurring Arbitrators' Signatures



James J. Fudala
Public Arbitrator, Presiding Chairperson

3/30/2006
Signature Date

Robert Charkovsky, Esq.
Public Arbitrator, Panelist

Signature Date

Paul H. McKenna
Non-Public Arbitrator, Panelist


Signature Date

April 3, 2006
Date of Service (For NASD Dispute Resolution office use only)

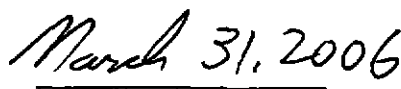
Concurring Arbitrators' Signatures

James J. Puhala
Public Arbitrator, Presiding Chairperson

Signature Date



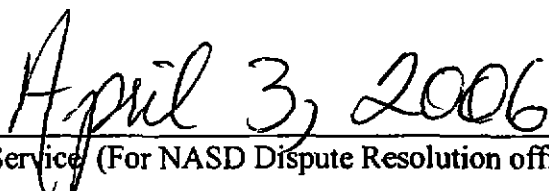
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Non-Public Arbitrator, Panelist

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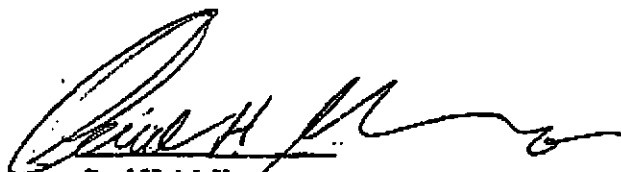
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