

**Award
NASD Dispute Resolution**

In the Matter of the Arbitration Between:

Name of the Claimant
Rosa Burney

Case Number: 04-03681

Name of the Respondent
Merrill Lynch, Pierce, Fenner & Smith, Inc.

Hearing Site: Raleigh, North Carolina

Nature of the Dispute: Customer vs. Member.

REPRESENTATION OF PARTIES

Claimant, Rosa Burney, hereinafter referred to as "Claimant", was represented by C. David Mee, Esq., Woska & Hayes, LLP, Kingwood, Texas.

Respondent, Merrill Lynch, Pierce, Fenner & Smith, Inc. ("Merrill Lynch") hereinafter referred to as "Respondent", was represented by Brad Rounsaville, Esq., Maynard, Cooper & Gale, P.C., Birmingham, Alabama.

CASE INFORMATION

Statement of Claim filed on May 21, 2004.

Claimant signed the Uniform Submission Agreement on April 26, 2004.

Statement of Answer filed by Respondent on August 9, 2004.

A representative of Respondent Merrill Lynch executed the Uniform Submission Agreement on April 15, 2005.

CASE SUMMARY

In the Statement of Claim, Claimant asserted the following causes of action, among others: controlling person liability, breach of fiduciary duty, breach of contract, violation of know your customer rule, suitability, failure to diversify, failure to supervise, violation of securities laws, failure to hedge, unjust enrichment and misrepresentation. The causes of action relate to the purchase and sale of various unspecified securities.

Unless specifically admitted in its Statement of Answer, Respondent denied the allegations made in the Statement of Claim and asserted the following defenses, among others: contributory negligence; failure to state a claim upon which relief may be granted; assumption of the risk; Claimant's claims are barred by the doctrines of waiver, ratification, laches and acquiescence; failure to exercise due diligence; failure to mitigate damages; authorization; and Claimant's claims are barred by the statute of limitations.

RELIEF REQUESTED

Claimant in the Statement of Claim requested:

Compensatory Damages	\$ 27,000.00
Punitive Damages	amount unspecified
Attorney's Fees	amount unspecified
Interest	amount unspecified
Other Costs	amount unspecified

Respondent requested that Claimant's Statement of Claim be denied in all respects and that costs of this proceeding be assessed against Claimant.

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

After considering the pleadings, the testimony and evidence presented at the hearing, the Arbitration Panel (the "Panel") has decided in full and final resolution of the issues submitted for determination as follows:

1. Claimant's claims are denied in their entirety;
2. The parties shall bear their respective costs, except as Fees are specifically addressed below;
and
3. 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	= \$ 150.00
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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	= \$	600.00
Pre-hearing process fee	= \$	750.00
Hearing process fee	= \$	1,000.00

Forum Fees and Assessments

The Panel has assessed forum fees for each session conducted. A session is any meeting between the parties and the 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 with a single arbitrator @ \$ 450.00	= \$	450.00
Pre-hearing conference: May 19, 2005 1 session		

One (1) Pre-hearing sessions with Panel @ \$ 600.00	= \$	600.00
Pre-hearing conference: November 19, 2004 1 session		

Three (3) Hearing sessions @ \$ 600.00	= \$	1,800.00
Hearing Dates: August 9, 2005 2 sessions		
August 10, 2005 1 session		

Total Forum Fees	= \$	2,850.00
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The Panel has assessed \$ 2,850.00 of the forum fees to Respondent.

Fee Summary

1. Claimant is assessed and shall pay:

Initial Filing Fee	= \$	150.00
Total Fees	= \$	150.00
Less payments	= \$	600.00
Refund owed Claimant	= \$	450.00

2. Respondent Merrill Lynch is assessed and shall pay:

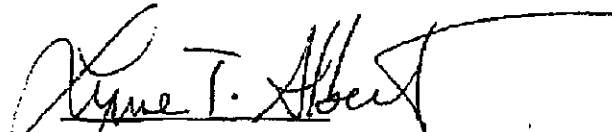
Member Fees	= \$	2,350.00
Forum Fees	= \$	2,850.00
Total Fees	= \$	5,200.00
Less payments	= \$	2,350.00
Balance Due NASD Dispute Resolution	= \$	2,850.00

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

ARBITRATION PANEL

Lynne T. Albert, Esq.	-	Public Arbitrator, Presiding Chairperson
Charles S. Clayton	-	Public Arbitrator, Panelist
Brian Seth Orol	-	Non-Public Arbitrator, Panelist

Concurring Arbitrators' Signatures


Lynne T. Albert, Esq.
Public Arbitrator, Presiding Chairperson

8/12/05
Signature Date

Charles S. Clayton
Public Arbitrator, Panelist

Signature Date

Brian Seth Orol
Non-Public Arbitrator, Panelist

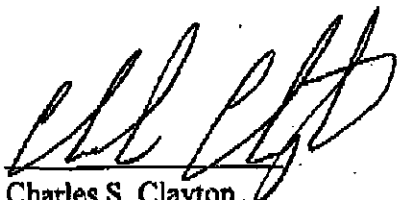
Signature Date

August 16, 2005
Date of Service (For NASD Dispute Resolution office use only)

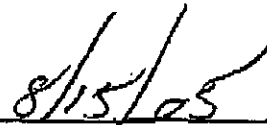
Concurring Arbitrators' Signatures

Lynne T. Albert, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date



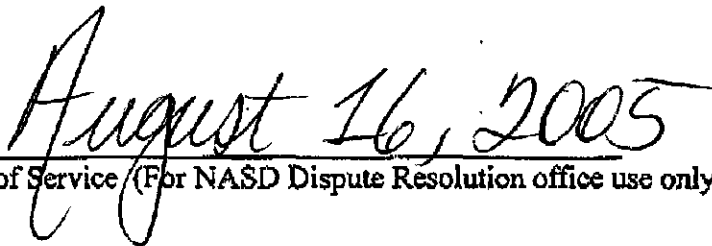
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Brian Seth Orol
Brian Seth Orol
Non-Public Arbitrator, Panelist

8/15/2005
Signature Date

August 16, 2005
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