

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Thomas M. Biancamano and Caroline Evelyn Biancamano (Claimants) v. Merrill Lynch, Pierce, Fenner & Smith, Inc. (Respondent)

Case Number: 04-04736

Hearing Site: Newark, New Jersey

Nature of the Dispute: Customers v. Member

REPRESENTATION OF PARTIES

Claimant Thomas M. Biancamano ("T. Biancamano") and Caroline Evelyn Biancamano ("C. Biancamano") hereinafter collectively referred to as "Claimants": Robert S. Moraff, Esq., Robert S. Moraff, P.C., Wayne, NJ.

Respondent Merrill Lynch, Pierce, Fenner & Smith, Inc. hereinafter referred to as "Respondent": William J. Manning, Jr., Esq., Loeb & Loeb, LLP, New York, NY. Previously represented by: Bryan I. Reyhani, Esq., Loeb & Loeb, LLP, New York, NY.

CASE INFORMATION

Statement of Claim filed on or about: June 30, 2004.
Claimant T. Biancamano signed the Uniform Submission Agreement.
Claimant C. Biancamano signed the Uniform Submission Agreement.

Statement of Answer filed by Respondent on or about: October 22, 2004.
Respondent signed the Uniform Submission Agreement: July 23, 2004.

CASE SUMMARY

Claimants asserted the following causes of action: breach of fiduciary duty; reckless disregard of Claimants' interests; and violations of the federal securities laws and NASD rules of fair dealing. The causes of action relate to unspecified value funds.

Unless specifically admitted in its Answer, Respondent denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

Claimants requested compensatory damages in an amount according to proof, but not less than \$300,000.00; disgorgement and restitution of all earnings, profits, compensation and benefits received by Respondent as a result of the unlawful acts and practices in an amount according to proof; rescission; attorneys' fees and costs; pre and post judgment interest at the legal rate; punitive damages; and such other relief as the Panel may deem equitable and just.

Respondent requested that the claims be denied in all respects; that costs of this action be assessed against Claimants, and that the Panel award Respondent such other and further relief as it deems just and proper.

OTHER ISSUES CONSIDERED AND DECIDED

At the hearing, the Panel reserved judgment on Respondent's Motion to Dismiss until the end of the case.

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.

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 in their entirety.
2. Any and all relief not specifically addressed herein, including punitive damages, is denied.

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 persons at the time of the events giving rise to the dispute. Accordingly, Merrill Lynch, Pierce, Fenner & Smith, Inc. is a party.

Member surcharge	= \$ 1,700.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$ 2,750.00
Total Member Fees	= \$ 5,200.00

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:

One (1) Pre-hearing session with Panel @ \$1,125.00 = \$ 1,125.00

Pre-hearing conference: January 3, 2005 1 session

Six (6) Hearing sessions @ \$1,125.00 = \$ 6,750.00

Hearing Dates: September 20, 2005 2 sessions

September 21, 2005 2 sessions

September 22, 2005 2 sessions

Total Forum Fees = \$ 7,875.00

1. The Panel has assessed \$3,937.50 of the forum fees jointly and severally against Claimants.
2. The Panel has assessed \$3,937.50 of the forum fees against Respondent Merrill Lynch.

Fee Summary

1. Claimants are jointly and severally liable for:

Initial Filing Fee = \$ 300.00

Forum Fees = \$ 3,937.50

Total Fees = \$ 4,237.50

Less payments = \$ 1,425.00

Balance Due NASD Dispute Resolution = \$ 2,812.50

2. Respondent is solely liable for:

Member Fees = \$ 5,200.00

Forum Fees = \$ 3,937.50

Total Fees = \$ 9,137.50

Less payments = \$ 5,200.00

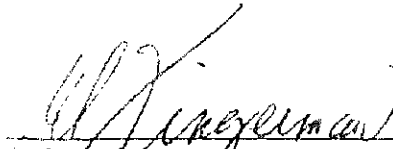
Balance Due NASD Dispute Resolution = \$ 3,937.50

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

ARBITRATION PANEL

Alfred Fingerman	-	Public Arbitrator, Presiding Chairperson
Dwight Wassong	-	Public Arbitrator
Bernard A. Kesselman, Esq.	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures


Alfred Fingerman
Public Arbitrator, Presiding Chairperson

Oct 7, 05
Signature Date

Dwight Wassong
Public Arbitrator

Signature Date

Bernard A. Kesselman, Esq.
Non-Public Arbitrator

Signature Date

October 11, 2005
Date of Service (For NASD Dispute Resolution use only)

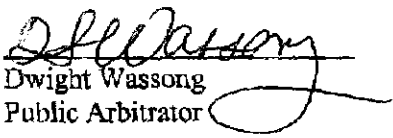
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Alfred Fingerman
Public Arbitrator, Presiding Chairperson

Signature Date


Dwight Wassong
Public Arbitrator

10/5/05
Signature Date

Bernard A. Kesselman, Esq.
Non-Public Arbitrator

Signature Date

October 11, 2005
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Alfred Fingerman
Public Arbitrator, Presiding Chairperson

Signature Date

Dwight Wassong
Public Arbitrator

Signature Date



Bernard A. Kesselman, Esq.
Non-Public Arbitrator

10/6/05

Signature Date

October 11, 2005

Date of Service (For NASD Dispute Resolution use only)