
Stipulated Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimant

Mildred Werner

Case Number: 03-05253

Names of the Respondents

Merrill Lynch, Pierce, Fenner & Smith Inc.
Jon K. Finstrom

Hearing Site: Tampa, Florida

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

REPRESENTATION OF PARTIES

For Mildred Werner, hereinafter referred to as "Claimant": Wm. Jemison Mims, Jr., Esq., Levin, Papantonio, Thomas, Mitchell, Echsner & Proctor, P.A., Pensacola, Florida.

For Merrill Lynch, Pierce, Fenner & Smith Inc. ("MLPFS") and Jon K. Finstrom ("Finstrom"), hereinafter collectively referred to as "Respondents": S. Lawrence Polk, Esq. and J.A. Schneider, Esq., Sutherland Asbill & Brennan, LLP, Atlanta, Georgia.

CASE INFORMATION

Statement of Claim filed on or about: July 14, 2003.

Claimant signed the Uniform Submission Agreement: March 10, 2003.

Statement of Answer filed by Respondents on or about: October 10, 2003.

Respondent MLPFS signed the Uniform Submission Agreement: August 27, 2003.

Respondent Finstrom signed the Uniform Submission Agreement: August 12, 2003.

CASE SUMMARY

Claimant alleged the following causes of action: 1) breach of fiduciary duty; 2) violation of state Blue Sky laws; 3) negligence; 4) negligent supervision; 5) negligent misrepresentation; and 6) fraud. The causes of action relate to investments in various unspecified securities.

Unless specifically admitted in their Statement of Answer, Respondents denied the allegations made in the Statement of Claim and asserted various defenses.

RELIEF REQUESTED

Claimant requested: 1) compensatory damages in the amount of \$67,623.26; 2) punitive damages; 3) interest; 4) costs; 5) attorneys' fees; and 6) such other relief the undersigned arbitrators (the "Panel") deemed just and proper.

Respondents requested: 1) dismissal of the Statement of Claim in its entirety; 2) expungement of all reference to the above captioned arbitration from Respondent Finstrom's registration records maintained by the NASD Central Registration Depository ("CRD"); 3) costs; and 4) such other relief the Panel deemed just and proper.

OTHER ISSUES CONSIDERED AND DECIDED

Claimant and Respondent MLPFS entered into a confidential settlement agreement. In connection with that agreement, Claimant dismissed all claims with prejudice against Respondents MLPFS and Finstrom with prejudice. On or about August 18, 2005, the parties filed their proposed Stipulated Award. On or about September 6, 2005, the Panel granted the parties' request for the entry of a Stipulated Award.

The parties agreed that the Stipulated Award in this matter may be executed in counterpart copies or that a handwritten, signed Stipulated Award may be entered.

AWARD

After considering the pleadings and the parties' request for entry of a Stipulated Award, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Claimant's claims are hereby denied and dismissed with prejudice.
2. The Panel recommends expungement of all references to the above-captioned arbitration proceeding from Respondent Finstrom's registration records maintained by the NASD CRD, with the understanding that pursuant to NASD Notice to Members 99-09 and 99-54, Respondent Finstrom must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.
3. Each party shall bear its own costs and expenses associated with the above-referenced arbitration, including attorneys' fees, except as fees specifically addressed below.
4. Any and all claims for relief not specifically addressed herein are denied.

FEES

Pursuant to the NASD Code of Arbitration Procedure (the "Code"), the following fees are assessed:

Filing Fees

NASD 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. Accordingly, Respondent MLPFS is a member firm and a party.

Member surcharge	= \$1,100.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$1,700.00

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

There were no adjournments requested during these proceedings for which fees were assessed.

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:

There were no adjournment fees assessed during these proceedings.

Injunctive Relief Fees

Injunctive relief fees are assessed to each member or associated person who files for a temporary injunction in court. Parties in these cases are also assessed arbitrator travel expenses and costs when an arbitrator is required to travel outside his or her hearing location and additional arbitrator honoraria for the hearing for permanent injunction. These fees, except the injunctive relief surcharge, are assessed equally against each party unless otherwise directed by the panel.

There were no injunctive relief fees assessed during these proceedings.

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 a single arbitrator @ \$450.00 per session = \$ 450.00
Pre-hearing conference: December 16, 2004 1 session

Two (2) Pre-hearing sessions with Panel @ \$750.00 per session = \$1,500.00
Pre-hearing conferences: March 25, 2004 1 session
August 9, 2004 1 session

Total Forum Fees = \$1,900.00

The Panel has assessed forum fees in the amount of \$600.00 to Claimant.

The Panel has assessed forum fees in the amount of \$1,350.00 jointly and severally to Respondents.

Administrative Costs

Administrative costs are expenses incurred due to a request by a party for special services beyond the normal administrative services. These include, but not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

There were no administrative costs incurred during these proceedings.

Fee Summary

Claimant is solely liable for:

Initial Filing Fee	= \$ 225.00
Forum Fees	= \$ 600.00
Total Fees	= \$ 825.00
Less payments	= \$ 825.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondent MLPFS is solely liable for:

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

Respondents are jointly and severally liable for:

Forum Fees	= \$1,350.00
Total Fees	= \$1,350.00
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$1,350.00

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

ARBITRATION PANEL

<i>Robert S. Bernard, Esq.</i>	-	<i>Public Arbitrator, Presiding Chairperson</i>
<i>Paul Sidney Elliott, J.D., CFP</i>	-	<i>Public Arbitrator</i>
<i>Andrew G. Fellios</i>	-	<i>Non-Public Arbitrator</i>

Concurring Arbitrators' Signatures

/s/
Robert S. Bernard, Esq.
Public Arbitrator, Presiding Chairperson

September 11, 2005
Signature Date

/s/
Paul Sidney Elliott, J.D., CFP
Public Arbitrator

September 9, 2005
Signature Date

/s/
Andrew G. Fellios
Non-Public Arbitrator

September 8, 2005
Signature Date

September 14, 2005
Date of Service (For NASD Dispute Resolution office use only)

The Panel has assessed forum fees in the amount of \$1,350.00 jointly and severally to Respondents.

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

Respondents are jointly and severally liable for:

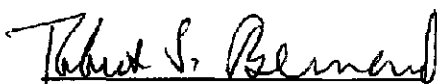
<u>Forum Fees</u>	= \$1,350.00
Total Fees	= \$1,350.00
<u>Less payments</u>	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$1,350.00

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ARBITRATION PANEL

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<i>Paul Sidney Elliott, J.D., CFP</i>	-	<i>Public Arbitrator</i>
<i>Andrew G. Fellios</i>	-	<i>Non-Public Arbitrator</i>

Concurring Arbitrators' Signatures



Robert S. Bernard, Esq.
Public Arbitrator, Presiding Chairperson

9/11/05

Signature Date

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Paul Sidney Elliott, J.D., CFP
Public Arbitrator

Signature Date

Andrew G. Fellios

Andrew G. Fellios
Non-Public Arbitrator

8 September 2005
Signature Date

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

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Paul Sidney Elliott, J.D., CFP
Public Arbitrator

9/9/05
Signature Date

Andrew G. Fellios
Non-Public Arbitrator

Signature Date

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