

Award
NASD Dispute Resolution

COPY

In the Matter of the Arbitration Between:

S. Robi Dutta and Jayati Dutta, Claimants v. Merrill Lynch, Pierce, Fenner & Smith Incorporated, Respondent

Case Number: 04-05423

Hearing Site: San Francisco, California

Nature of the Dispute: Customers vs. Member

REPRESENTATION OF PARTIES

For Claimants:

James H. West, Esq.
West & Costello, LLC
Baltimore, Maryland

For Respondent:

Eric J. Glassman, Esq.
Mennemeier, Glassman & Stroud
Sacramento, California

CASE INFORMATION

Statement of Claim filed: July 28, 2004

Claimant's Pre-Hearing Memorandum filed: August 4, 2005

Claimants' Uniform Submission Agreement signed: August 7, 2004

Statement of Answer filed by Respondent Merrill Lynch, Pierce, Fenner & Smith Incorporated ("Merrill Lynch"): October 28, 2004

Respondent's Hearing Brief filed: August 3, 2005

Respondent Merrill Lynch's Uniform Submission Agreement signed: September 20, 2004

CASE SUMMARY

Claimants alleged the following claims with respect to their investments in InfoSpace, Inc. stock: 1) Fraud; 2) Constructive Fraud; 3) Breach of Fiduciary Duty; 4) Negligent Misrepresentation/Omission; 5) Breach of Contract; and 6) Negligent Supervision.

Respondent denied Claimants' allegations of wrongdoing and denied any liability to Claimants. Respondent also asserted affirmative defenses.

RELIEF REQUESTED

Claimants requested compensatory damages in an amount of \$188,280.56, plus interest, attorneys' fees, costs, and such other and further relief as justice may require.

Respondent requested dismissal of Claimants' Statement of Claim; that the Panel enter an award in Respondent's favor; that the Panel assess costs against Claimants; and such other and further relief as is deemed just and proper.

OTHER ISSUES CONSIDERED AND DECIDED

On September 29, 2004, Claimants and Claimants' counsel signed a Waiver Agreement expressly waiving any and all rights and benefits under California Civil Code Section 1542 and the California Ethical Standards for Neutral Arbitrators.

Pursuant to the Code of Arbitration Procedure IM-10100 the waiver of the Claimants shall constitute and operate as a waiver for all member firms and associated persons (including terminated or otherwise inactive member firms or associated persons) against whom the Claim has been filed.

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, testimony, and evidence presented at the hearing, the Panel decided in full and final resolution of the issues submitted for determination as follows:

- 1) Respondent Merrill Lynch is liable to and shall pay Claimants S. Robi Dutta and Jayati Dutta the sum of \$188,281.00.
- 2) Respondent Merrill Lynch is liable to and shall pay Claimants S. Robi Dutta and Jayati Dutta pre-judgment interest in the amount of \$13,180.00 from September 1, 2000 until August 31, 2001.
- 3) Each party shall bear its own costs, including attorney's fees.
- 4) All other relief not expressly granted is denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Dispute Resolution received or will collect the non-refundable filing fees for each claim as follows:

Initial claim filing fee	= \$300.00
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Member Fees

Member fees are assessed to each member firm that is either a party in the matter or an employer of a respondent associated person at the time of the events that gave rise to the dispute, claim, or controversy. Accordingly, Merrill Lynch is a party and the following fees are assessed:

Member Surcharge	= \$1,700.00
Pre-Hearing Process Fee	= \$ 750.00
<u>Hearing Process Fee</u>	<u>= \$2,750.00</u>
Total Member Fees	= \$5,200.00

Forum Fees and Assessments

The Panel assessed a forum fee for each pre-hearing conference or hearing session conducted. A pre-hearing conference and hearing session is any meeting between the parties and the Chair/Panel. The following fees are assessed:

(2) Pre-hearing conference sessions with the Panel @ \$1,125.00/session = \$2,250.00

Pre-hearing conferences:	January 18, 2005	1 session
	January 26, 2005	1 session

(5) Hearing sessions @ \$1,125.00/session = \$5,625.00

Hearings:	August 16, 2005	2 sessions
	August 17, 2005	2 sessions
	August 18, 2005	1 session

Total Forum Fees	= \$7,875.00
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The Panel assessed \$3,375.00 in forum fees jointly and severally to Claimants.

The Panel assessed \$3,375.00 in forum fees to Respondent.

The Panel waived the \$1,125.00 in forum fees in connection with the phone conference held January 18, 2005.

Fee Summary

1. Claimants are charged jointly and severally with the following fees and costs:

Initial Filing Fee	= \$ 300.00
Forum Fees	= \$ 3,375.00
Total Fees	= \$ 3,675.00
Less Payments	= \$(1,425.00)
Balance Due NASD Dispute Resolution	= \$ 2,250.00

2. Respondent Merrill Lynch is charged with the following fees and costs:


Member Fees	= \$ 5,200.00
Forum Fees	= \$ 3,375.00
Total Fees	= \$ 8,575.00
Less Payments	= \$(5,200.00)
Balance Due NASD Dispute Resolution	= \$ 3,375.00

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

ARBITRATION PANEL

Ralph A. Cotton, CPA	-	Public Arbitrator, Presiding Chair
Lester Friedman, Esq.	-	Public Arbitrator
Homer L. Davis, III, CFP	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures


Ralph A. Cotton, CPA
Chair, Public Arbitrator

8-22-05
Signature Date

Lester Friedman, Esq.
Public Arbitrator

Signature Date

Homer L. Davis, III, CFP
Non-Public Arbitrator

Signature Date

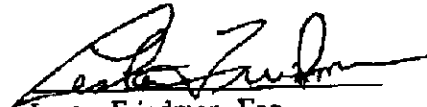
8/23/05
Date of Service

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Lester Friedman, Esq.
Public Arbitrator

Signature Date

8/23/05

Signature Date

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Public Arbitrator

Signature Date


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8/22/05
Signature Date

Aug 16-18, 2005
Date of Service
8/23/05