

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Names of the Claimants

Ronald A. Graybill IRA
Margaret A. Graybill individually and o/b/o her IRA

Case Number: 04-05503

Name of the Respondent

Merrill Lynch, Pierce, Fenner & Smith, Inc.

Hearing Site: Baltimore, Maryland

Nature of the Dispute: Customers vs. Member.

REPRESENTATION OF PARTIES

Claimants, Ronald Graybill IRA and Margaret Graybill individually and o/b/o her IRA, hereinafter collectively referred to as "Claimants", were represented by Gretchen L. Gradinger, Esq., Bellows and Bellows, P.C., Chicago, Illinois.

Respondent, Merrill Lynch, Pierce, Fenner & Smith, Inc. ("Merrill Lynch"), hereinafter referred to as "Respondent", was represented by Angela A. Turino, Esq., Office of the General Counsel, Merrill Lynch, Pierce, Fenner & Smith, Inc., New York, New York.

CASE INFORMATION

Statement of Claim filed on August 2, 2004.

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

Statement of Answer filed by Respondent on October 28, 2004.

Respondent did not file a Uniform Submission Agreement.

CASE SUMMARY

Claimants asserted the following causes of action, among others: breach of fiduciary duty, breach of contract, suitability, failure to supervise, violation of the Securities Exchange Act of 1934 and Rule 10(b)(5) promulgated thereunder, and violation of the Maryland Securities Act. The causes of action relate to the purchase on margin and sale of various unspecified mutual funds.

Unless specifically admitted in its Answer, Respondent denied the allegations made in the Statement of Claim and asserted the following defenses, among others: Claimants failed to state a claim upon which relief may be granted; statutes of limitations; the claims are barred by the doctrines of estoppel, waiver and laches; and ratification.

RELIEF REQUESTED

Claimants in their Statement of Claim requested:

Compensatory Damages	\$122,611.00
Interest	amount unspecified
Attorneys' Fees	amount unspecified

Respondent in its Statement of Answer requested that the Statement of Claim be dismissed with prejudice in its entirety.

OTHER ISSUES CONSIDERED AND DECIDED

Respondent did not file with NASD Dispute Resolution, a properly executed submission to arbitration but is required to submit to arbitration pursuant to the Code and, having answered the claim, is bound by the determination of the Arbitration Panel (the "Panel") on all issues submitted.

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. All claims against Respondent are denied in their entirety;
2. All claims for attorneys' fees are denied in their entirety;
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 = \$ 300.00

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, Merrill Lynch 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 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: June 29, 2005 1 session	

One (1) Pre-hearing session with Panel @ \$1,125.00	= \$1,125.00
Pre-hearing conference: January 11, 2005 1 session	

Four (4) Hearing sessions @ \$1,125.00	= \$4,500.00
Hearing Dates: August 16, 2005 2 sessions	
August 17, 2005 2 sessions	

Total Forum Fees	= \$6,075.00
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1. The Panel has assessed \$3,037.50 of the forum fees to Claimants.
2. The Panel has assessed \$3,037.50 of the forum fees to Respondent.

EEE SUMMARY

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

Initial Filing Fee	= \$ 300.00
Forum Fees	= \$3,037.50
Total Fees	= \$3,337.50
Less payments	= \$1,425.00
Balance Due NASD Dispute Resolution	= \$1,912.50
2. Respondent is assessed and shall pay the following fees:

Member Fees	= \$5,200.00
Forum Fees	= \$3,037.50
Total Fees	= \$8,237.50
Less payments	= \$5,200.00
Balance Due NASD Dispute Resolution	= \$3,037.50

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

ARBITRATION PANEL

Paul A. Dorf	-	Public Arbitrator, Presiding Chairperson
Lawrence E. Dube, Jr., Esq.	-	Public Arbitrator, Panelist
Victor H. Dates, J.D.	-	Non-Public Arbitrator, Panelist

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Concurring Arbitrators' Signatures


Paul A. Dorf
Public Arbitrator, Presiding Chairperson

8-19-05
Signature Date

Lawrence E. Dube, Jr., Esq.
Public Arbitrator, Panelist

Signature Date

Victor H. Dates, J.D.
Non-Public Arbitrator, Panelist

Signature Date

8/23/05
Date of Service (For NASD Dispute Resolution office use only)

08/15/2005 14:05 4102768807
08/19/2005 13:09 FAX 202 728 8082

DUBE & GOODGAL PC
NASD DISPUTE RESOLUTION

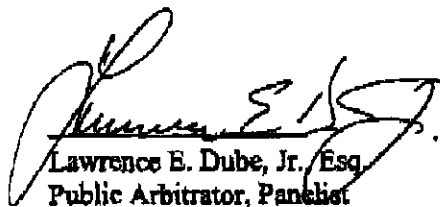
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Concurring Arbitrators' Signatures

Paul A. Dorf
Public Arbitrator, Presiding Chairperson

Signature Date


Lawrence E. Dube, Jr., Esq.
Public Arbitrator, Panelist

Aug. 22, 2005
Signature Date

Victor H. Dates, J.D.
Non-Public Arbitrator, Panelist

Signature Date

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

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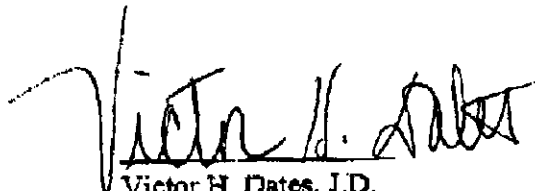
Concurring Arbitrators' Signatures

Paul A. Dorf
Public Arbitrator, Presiding Chairperson

Signature Date

Lawrence E. Dube, Jr., Esq.
Public Arbitrator, Panelist

Signature Date



Victor H. Dates, J.D.
Non-Public Arbitrator, Panelist

Aug. 19, 2005

Signature Date

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