

Stipulated Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimant

Joseph Ford

Case Number: 04-05526

Names of the Respondents

Merrill Lynch, Pierce, Fenner & Smith, Inc.

Gregg A. Marks

Dominic K. Tomeo

Hearing Site: Philadelphia, PA

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

REPRESENTATION OF PARTIES

Claimant Joseph Ford "Claimant", was represented by Steven Janove, Esq., Cedrone & Janove, P.C., Philadelphia, Pennsylvania.

Respondents, Merrill Lynch, Pierce, Fenner & Smith, Inc. ("Merrill Lynch"), Gregg A. Marks ("Marks"), and Dominic K. Tomeo ("Tomeo"), hereinafter collectively referred to as "Respondents", were represented by David J. Libowsky, Esq., Bressler Amery & Ross, P.C., Florham Park, New Jersey.

CASE INFORMATION

Statement of Claim filed on August 3, 2004.

Claimant signed the Uniform Submission Agreement on July 23, 2004.

Statement of Answer filed by Respondents on October 26, 2004.

Amended Statement of Answer filed by Respondents on December 17, 2004.

Respondent Marks signed the Uniform Submission Agreement on October 29, 2004.

Respondent Tomeo signed the Uniform Submission Agreement on August 18, 2004.

A representative of Respondent Merrill Lynch executed the Uniform Submission Agreement on August 19, 2004.

Respondent Tomeo filed a Motion to Dismiss the Statement of Claim as to himself on June 13, 2005.

CASE SUMMARY

Claimant asserted the following causes of action: unsuitability, breach of contract, breach of fiduciary duty, fraud, negligence, failure to supervise, and conflict of interest. The causes of action relate to the purchase of various stocks including, but not limited to, Buy.com, Infospace, Freemarkets, and Exodus Communication.

Unless specifically admitted in their Statement of Answer and Amended Statement of Answer, Respondents denied the allegations made in the Statement of Claim and asserted the following

defenses, among others: the Statement of Claim fails to state a claim upon which relief can be granted; statute of limitations; the Statement of Claim is barred by the doctrines of laches, waiver, ratification, and estoppel; and failure to mitigate damages.

RELIEF REQUESTED

Claimant in his Statement of Claim requested:

Compensatory Damages	\$150,000.00
Interest	amount unspecified
Attorneys' Fees	amount unspecified
Other Costs	amount unspecified

Respondents in their Statement of Answer and Amended Statement of Answer requested that the Arbitration Panel (the "Panel") dismiss Claimant's Statement of Claim and Recommend the expungement of the registration records of Respondents Mark and Tomeo maintained by NASD Central Registration Depository ("CRD").

OTHER ISSUES CONSIDERED AND DECIDED

On July 28, 2005 Claimant dismissed Respondent Tomeo from this arbitration with prejudice.

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

AWARD

In January 2006 the parties amicably settled all matters by and between them and entered into an agreement to present to the Panel a Stipulated Award. Now, in lieu of a hearing and upon motion of Respondents for entry of an award, the written stipulation thereto, the Panel hereby grants the motion and enters this award granting the following relief:

1. The claims against Respondents Merrill Lynch and Marks are dismissed with prejudice;
2. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Marks' registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notices to Members 04-16, Respondent Marks must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

Unless specifically waived in writing by the NASD, parties seeking judicial confirmation of an arbitration award containing expungement relief must name the NASD as an additional party and serve NASD with all appropriate documents.

Pursuant to Rule 2130 the Panel has made the following affirmative finding of fact: the claim allegation or information is factually impossible or clearly erroneous;

3. The parties shall bear their respective costs, including attorneys' fees, except as Fees are specifically addressed below. Notwithstanding the foregoing, all costs associated with the aforementioned expungement of Respondent Marks' record shall be borne solely by Respondent Marks;
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
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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 firms that employed the associated person(s) at the time of the events giving rise to the dispute. Accordingly, Respondent 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 Panel @ \$1,125.00	= \$1,125.00
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Pre-hearing conference: February 28, 2005 1 session	
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Total Forum Fees	= \$1,125.00
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1. The Panel has assessed \$562.50 of the forum fees to Claimant.
2. The Panel has assessed \$562.50 of the forum fees jointly and severally to Respondents Marks and Merrill Lynch.

FEE SUMMARY

1. Claimant is assessed and shall pay the following fees:

Initial Filing Fee	= \$ 300.00
Member Fees	= \$ 562.50
Retained Hearing Session Deposit	= \$ 562.50
Total Fees	= \$1,425.00

Less payments	= \$1,425.00
Balance Due NASD Dispute Resolution	= \$ 00.00

2. Respondent Merrill Lynch is assessed and shall pay the following fees:

Member Fees	= \$5,200.00
Total Fees	= \$5,200.00
Less payments	= \$5,200.00
Balance Due NASD Dispute Resolution	= \$ 00.00

3. Respondents Marks and Merrill Lynch are jointly and severally assessed and shall pay the following fees:

Forum Fees	= \$ 562.50
Total Fees	= \$ 562.50
Less payments	= \$ 00.00
Balance Due NASD Dispute Resolution	= \$ 562.50

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

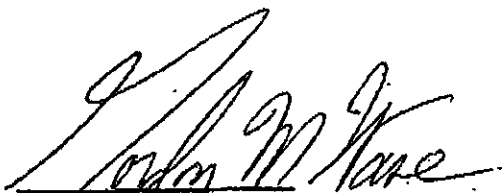
ARBITRATION PANEL

Gordon M. Wase, Esq.	-	Public Arbitrator, Presiding Chairperson
Joseph L. Farrell, Jr., Esq.	-	Public Arbitrator, Panelist
Adrienne Yost Hart, Esq.	-	Non-Public Arbitrator, Panelist

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Concurring Arbitrators' Signatures



Gordon M. Wase, Esq.
Public Arbitrator, Presiding Chairperson

3/15/06
Signature Date

Joseph L. Farrell, Jr., Esq.
Public Arbitrator, Panelist

Signature Date

Adrienne Yost Hart, Esq.
Non-Public Arbitrator, Panelist

Signature Date

March 22, 2006

Date of Service (For NA 3D Dispute Resolution office use only)

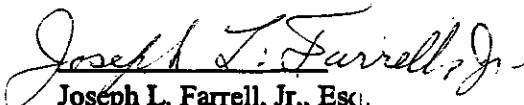
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03/21/2006 15:28 FAX 202 728 8082

NASD DISPUTE RESOLUTION

007/007

NASD Dispute Resolution

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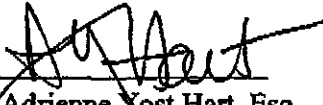
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Public Arbitrator, Panelist

Signature Date



Adrienne Yost Hart, Esq.
Non-Public Arbitrator, Panelist

21 March 06
Signature Date

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