

AWARD
NASD Dispute Resolution

In the Matter of the Arbitration Between

Name of Claimant

William Anderson

and

Case Number: 04-05821
Hearing Site: Houston, Texas

Names of Respondents

Merrill Lynch Pierce Fenner & Smith, Inc.
and Sally Louie Kline

NATURE OF DISPUTE

Associated Person v. Member Firm and Associated Person

REPRESENTATION OF PARTIES

William Anderson ("**Claimant**") was represented by Alan N. Magenheim, Esq., Magenheim & Associates, Houston, Texas.

Merrill Lynch Pierce Fenner & Smith, Inc. ("**Merrill Lynch**") and Sally Louie Kline ("**Kline**") hereinafter collectively referred to as "Respondents," were represented by Charles A. Gall, Esq., Jenkins & Gilchrist, Dallas, Texas.

CASE INFORMATION

The Statement of Claim was filed on or about August 18, 2004. The Submission Agreement of Claimant, William Anderson, was signed on or about August 26, 2004. On or about November 12, 2004, Claimant filed a Response to the Motion for a More Definite Statement of Claim. On or about November 29, 2004, Claimant filed an Amended Statement of Claim. On or about December 23, 2004, Claimant filed his Response to Respondents' Second Motion for a More Definite Statement of Claim. On or about January 17, 2005, Claimant filed a Second Amended Statement of Claim. On or about April 20, 2005, Claimant filed a Motion to Extend Time to Respond to Respondents' Motion to Dismiss. On or about May 19, 2005, Claimant filed his Response to Respondents' Motion to Dismiss.

A Statement of Answer and Motion for a More Definite Statement were filed jointly by Respondents, Merrill Lynch Pierce Fenner & Smith, Inc. and Sally Louie Kline, on or about October 29, 2004. The Submission Agreement of Respondent, Merrill Lynch Pierce

Fenner & Smith, Inc., was signed on or about September 28, 2004. The Submission Agreement of Respondent, Sally Louie Kline, was signed on or about January 28, 2005. On or about October 28, 2004, Respondents filed a Motion for a More Definite Statement of Claim. On or about December 9, 2004, Respondents filed an Amended Statement of Answer and a Second Motion for a More Definite Statement of Claim. On or about February 9, 2005, Respondents filed a Second Amended Statement of Answer. On or about April 8, 2005, Respondents filed a Motion to Dismiss. On or about May 4, 2005, Respondents filed a Response to Claimant's Motion to Extend Time to Respond to Respondents' Motion to Dismiss. On or about May 26, 2005, Respondents filed their Reply to Claimant's Response to the Motion to Dismiss.

CASE SUMMARY

Claimant asserted the following causes of action: breach of contract, negligent misrepresentation, defamation, gross negligence, malice, common law fraud, and breach of fiduciary duty. The causes of action related to Claimant's employment at Merrill Lynch. Claimant alleged that when he began working at Merrill Lynch, he brought his clients that he serviced while at Edward D. Jones. Claimant alleged that the Team Agreement he entered into with Kline was a partnership agreement with Kline and he had ownership rights in Merrill Lynch customers. Claimant alleged that Merrill and Kline fraudulently induced him to enter into their agreement with no intention of fulfilling the obligation thereunder. Finally, Claimant alleged that Respondents made defamatory statements, which caused harm to his reputation.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted affirmative defenses including the following: the Statement of Claim failed to state a claim upon which relief can be granted; that the Team Agreement did not create a partnership or joint venture, it could be terminated at any time and that Merrill Lynch "at all times retains the right to assign customer accounts to the Financial Consultants which it believes will best service its customers;" Claimant voluntarily terminated his employment on November 7, 2003; Claimant's claims of defamation are insufficient factually and as a matter of law; Claimant's claims are barred due to the statutes of limitations; Claimant's claims are barred by his own ratification, omissions, and contributory negligence; and Claimant failed to mitigate his damages.

RELIEF REQUESTED

Claimant requested an award in the amount of:

Actual/Compensatory Damages	\$2,000,000.00
Punitive/Exemplary Damages	\$2,000,000.00
Attorneys' Fees	Unspecified
Interest	Unspecified

Other Costs
Other Monetary Relief

Unspecified
Unspecified

Respondents requested that the claims asserted against them be denied in their entirety and that they be awarded their costs and attorneys' fees.

OTHER ISSUES CONSIDERED & DECIDED

On or about November 29, 2004, Claimant filed an Amended Statement of Claim prior to the Panel being appointed. On or about January 30, 2005, the Panel denied Respondents' Second Motion for a More Definite Statement.

On or about May 5, 2005, the Panel granted Claimant's Motion to Extend Time to Respond to Respondents' Motion to Dismiss. Claimant's Response was due on or before May 23, 2005.

On or about May 27, 2005, the Panel issued an Order denying Respondents' Motion to Dismiss.

Respondents requested a prehearing to orally argue the Panel to reconsider its previous decision to deny their Motion to Dismiss. On January 23, 2006, the prehearing took place and the Panel issued an Order that the Motion to Reconsider the Respondents' Motion to Dismiss was denied.

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. In either case, the parties have agreed to receive conformed copies of the award while the original(s) remain on file with NASD Dispute Resolution ("NASD").

AWARD

After considering the pleadings, the testimony, and the evidence presented at the hearing, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

- 1.) Claimant's claims, each and all, are hereby denied and dismissed with prejudice;
- 2.) Other than Forum Fees which are specified below, the parties shall each bear their own costs and expenses incurred in this matter; and
- 3.) Any relief not specifically enumerated, including punitive damages and attorneys' fees, is hereby denied with prejudice.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Dispute Resolution will retain the non-refundable filing fee for each claim:

Initial claim filing fee = \$ 600.00

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. In this matter, the member firm is Merrill Lynch Pierce Fenner & Smith, Inc.

Member surcharge = \$ 2,800.00
Pre-hearing process fee = \$ 750.00
Hearing process fee = \$ 5,000.00

Adjournment Fees

Adjournments granted during these proceedings:

September 13-16, 2005, adjournment requested by Merrill Lynch = \$ 1,200.00
December 6-8, 2005, adjournment by requested jointly by the parties = \$ 1,200.00

Forum Fees and Assessments

The Arbitration Panel assesses forum fees for each hearing session conducted. A hearing 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) Decision on discovery-related motions on the papers
with one (1) arbitrator x \$200.00 = \$ 200.00
- The parties submitted one (1) discovery-related motion

Three (3) Pre-hearing sessions with a single arbitrator x \$450.00 = \$ 1,350.00
Pre-hearing conferences: July 8, 2005 1 session
January 23, 2006 1 session
April 6, 2006 1 session

Three (3) Pre-hearing sessions with Panel x \$1,200.00	= \$ 3,600.00
Pre-hearing conferences: January 4, 2005	1 session
December 6, 2005	1 session
January 23, 2006	1 session
Six (6) Hearing sessions x \$1,200.00	= \$ 7,200.00
Hearing Dates: April 11, 2006	2 sessions
April 12, 2006	2 sessions
April 13, 2006	2 sessions
Total Forum Fees	= \$ 12,350.00

The Arbitration Panel has assessed \$6,175.00 of the forum fees to William Anderson.

The Arbitration Panel has assessed \$6,175.00 of the forum fees to Merrill Lynch Pierce Fenner & Smith, Inc.

Fee Summary

Claimant, William Anderson, is liable for:

Initial Filing Fee	= \$ 600.00
Adjournment Fee	= \$ 600.00
Forum Fees	= \$ 6,175.00
Total Fees	= \$ 7,375.00
Less payments	= \$ 2,400.00
Balance Due NASD Dispute Resolution	= \$ 4,975.00

Respondent, Merrill Lynch Pierce Fenner & Smith, Inc., is liable for:

Member Fees	= \$ 8,550.00
Adjournment Fee	= \$ 1,200.00
Forum Fees	= \$ 6,175.00
Total Fees	= \$ 15,925.00
Less payments	= \$ 10,350.00
Balance Due NASD Dispute Resolution	= \$ 5,575.00

Respondents, Merrill Lynch Pierce Fenner & Smith, Inc. and Sally Louie Kline, are jointly and severally liable for:

Adjournment Fee	= \$ 600.00
Total Fees	= \$ 600.00
Less payments	= \$ 600.00
Balance Due NASD Dispute Resolution	= \$ 0.00

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

ARBITRATION PANEL

Walton L. Huff - Public Arbitrator, Presiding Chair
Edmund Herbert Hecht - Public Arbitrator
William J. Kirkpatrick, Jr. - Non-Public Arbitrator

Concurring Arbitrators:

/s/ Walton L. Huff
Walton L. Huff
Public Arbitrator, Presiding Chair

April 25, 2006
Signature Date

/s/ Edmund Herbert Hecht
Edmund Herbert Hecht
Public Arbitrator

April 25, 2006
Signature Date

/s/ William J. Kirkpatrick, Jr.
William J. Kirkpatrick, Jr.
Non-Public Arbitrator

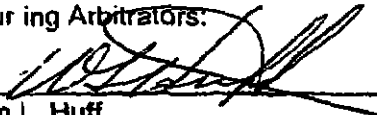
April 25, 2006
Signature Date

April 25, 2006
Date of Service (For NASD office use only)

ARBITRATION PANEL

Walton L. Huff - Public Arbitrator, Presiding Chair
Edmund Herbert Hecht - Public Arbitrator
William J. Kirkpatrick, Jr. - Non-Public Arbitrator

Concurring Arbitrators:


Walton L. Huff
Public Arbitrator, Presiding Chair

4/25/06
Signature Date


Edmund Herbert Hecht
Public Arbitrator


Signature Date


William J. Kirkpatrick, Jr.
Non-Public Arbitrator


Signature Date


Date of Service (For NASD office use only)

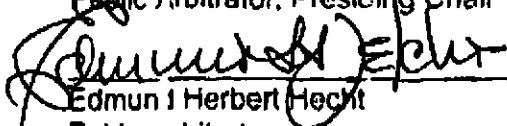
ARBITRATION PANEL

Walton L. Huff - Public Arbitrator, Presiding Chair
Edmund Herbert Hecht - Public Arbitrator
William J. Kirkpatrick, Jr. - Non-Public Arbitrator

Concurring Arbitrators:

Walton L. Huff
Public Arbitrator, Presiding Chair

Signature Date



Edmund Herbert Hecht
Public Arbitrator

April 25, 2006

Signature Date

William J. Kirkpatrick, Jr.
Non-Public Arbitrator

Signature Date

Date of Service (For NASD office use only)

ARBITRATION PANEL

Walton L. Huff - Public Arbitrator, Presiding Chair
Edmund Herbert Hecht - Public Arbitrator
William J. Kirkpatrick, Jr. - Non-Public Arbitrator

Concurring Arbitrators:

Walton L. Huff
Public Arbitrator, Presiding Chair

Signature Date

Edmund Herbert Hecht
Public Arbitrator

Signature Date



William J. Kirkpatrick, Jr.
Non-Public Arbitrator

4-25-06

Signature Date

Date of Service (For NASD office use only)