

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Renee J. Dokter (Claimant) v. Merrill Lynch Pierce Fenner and Smith Inc., and David Ashe (Respondents)

Case Number: 04-06723

Hearing Site: Cleveland, Ohio

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

REPRESENTATION OF PARTIES

Claimant Renee J. Dokter ("Dokter") hereinafter referred to as "Claimant": William G. Chris, Esq. and Brian K. Harnak, Esq., Roderick Linton LLP, Akron, OH.

Respondents Merrill Lynch Pierce Fenner and Smith Inc ("Merrill") and David Ashe ("Ashe"), hereinafter collectively referred to as "Respondents": Joshua R. Cohen, Esq., Cohen Rosenthal & Kramer LLP, Cleveland, OH.

CASE INFORMATION

Statement of Claim filed on or about: September 22, 2004.

Claimant signed the Uniform Submission Agreement: September 22, 2004.

Joint Statement of Answer and Motion to Dismiss filed by Respondents on or about: November 22, 2004.

Respondent Merrill signed the Uniform Submission Agreement: December 6, 2004.

Respondent Ashe signed the Uniform Submission Agreement: February 1, 2005.

CASE SUMMARY

Claimant asserted the following causes of action: suitability, breach of fiduciary duty, failure to supervise, misrepresentations, omission of facts, negligence, and breach of contract. The causes of action relate to equities, fixed income, and technology stocks.

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

RELIEF REQUESTED

Claimant requested: compensatory damages not less than \$300,000.00, disgorgement of Respondents' commissions and compensation, attorneys' fees, costs, pre-judgment interest, punitive damages in the amount of \$199,000.00, post-judgment interest and such other and further relief the Panel deems just and proper.

Respondents requested that the Statement of Claim be dismissed with prejudice in its entirety, expungement of Ashe's CRD record, costs of this arbitration proceeding, including attorneys' fees, and any other relief the Panel deems just and equitable.

OTHER ISSUES CONSIDERED AND DECIDED

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. Respondents are jointly and severally liable for and shall pay to Claimant \$200,000.00 in compensatory damages.
2. Any and all relief not specifically addressed herein, including punitive damages is denied.

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 firm that employed the associated person at the time of the events giving rise to the dispute. Accordingly, Merrill is a party.

Member surcharge	= \$ 1,700.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$ 2,750.00

Forum Fees and Assessments

The Panel has assessed forum fees for each session conducted. A session is any meeting between the parties and the 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 Panel @ \$1,125.00 = \$ 1,125.00

Pre-hearing conference: February 18, 2005 1 session

Four (4) Hearing sessions @ \$1,125.00 = \$ 4,500.00

Hearing Dates: August 1, 2005 2 sessions

August 2, 2005 2 sessions

Total Forum Fees = \$ 5,625.00

1. The Panel has assessed \$5,625.00 of the forum fees solely to Merrill Lynch.

Fee Summary

1. Claimant is solely liable for:

Initial Filing Fee = \$ 300.00

Total Fees = \$ 300.00

Less payments = \$ 2,125.00

Refund Due Claimant = \$ 1,825.00

2. Respondent Merrill is solely liable for:

Member Fees = \$ 5,200.00

Forum Fees = \$ 5,625.00

Total Fees = \$ 10,825.00

Less payments = \$ 5,200.00

Balance Due NASD Dispute Resolution = \$ 5,625.00

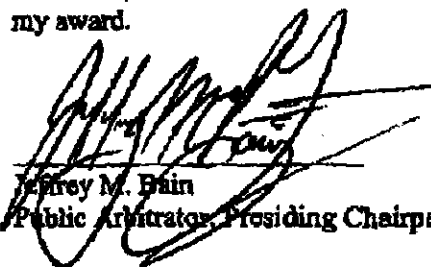
All balances are payable to NASD Dispute Resolution and are due upon receipt pursuant to Rule 10330(g) of the Code.

ARBITRATION PANEL

Jeffrey M. Bain	-	Public Arbitrator, Presiding Chairperson
Elmer G. Cowan	-	Public Arbitrator
Henry Ott-Hansen	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

I, the undersigned arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument, which is my award.



Jeffrey M. Bain
Public Arbitrator, Presiding Chairperson

August 27, 2005
Signature Date

Elmer G. Cowan
Public Arbitrator

Signature Date

Henry Ott-Hansen
Non-Public Arbitrator

Signature Date

SEPTEMBER 7, 2005
Date of Service (For NASD Dispute Resolution use only)

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Jeffrey M. Bain
Public Arbitrator, Presiding Chairperson

Signature Date



Elmer G. Cowan
Public Arbitrator

AUG 29 2005

Signature Date

Henry Ott-Hansen
Non-Public Arbitrator

Signature Date

SEPTEMBER 7, 2005
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Jeffrey M. Bain
Public Arbitrator, Presiding Chairperson

Signature Date

Elmer G. Cowan
Public Arbitrator

Signature Date


Henry Ott-Hansen
Non-Public Arbitrator

08/27/2005
Signature Date

SEPTEMBER 7, 2005
Date of Service (For NASD Dispute Resolution use only)