

Stipulated Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

R. Stephen Seibt, MD, (Claimant) v. Merrill Lynch Pierce Fenner & Smith, Inc. and Howard M. Lippman (Respondents)

Case Number: 04-07196

Hearing Site: Newark, New Jersey

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

REPRESENTATION OF PARTIES

Claimant R. Stephen Seibt, MD ("Seibt") hereinafter referred to as "Claimant": J. Anklowitz, Esq., Law Offices of J. Anklowitz, Bohemia, NY.

Respondents Merrill Lynch Pierce Fenner & Smith, Inc., ("MLPFS") and Howard M. Lippman ("Lippman"), hereinafter collectively referred to as "Respondents": Joel S. Forman, Esq., Curtis, Mallet-Prevost, Colt & Mosle, LLP., New York, NY.

CASE INFORMATION

Statement of Claim filed on or about: October 8, 2004.

Claimant signed the Uniform Submission Agreement: October 8, 2004.

Joint Statement of Answer filed by Respondents on or about: January 14, 2005.

MLPFS signed the Uniform Submission Agreement: November 22, 2004.

Lippman signed the Uniform Submission Agreement: November 18, 2004.

CASE SUMMARY

Claimant asserted the following causes of action: overconcentration, unsuitability, negligence, fraud/misrepresentation, breach of contract. The causes of action relate to unspecified ultra-high risk high-tech and telecommunications stocks.

Unless specifically admitted in its Answer, Respondents denied the allegations of wrongdoing set forth in the Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

Claimant requested compensatory damages in the amount of \$1,000,000.00 plus interest, costs, and fees associated with the bringing of this action, reasonable attorney's fees, punitive damages, and such other and further relief as the panel deems just and proper.

Respondents requested dismissal of the Statement of Claim in its entirety, an order that any reference to the claims be expunged from Lippman's records with the Central Registration Depository, reimbursement of member surcharges relating to this arbitration and the assessment of all forum fees against Claimant, and their costs, including attorneys' fees, for the defense of this arbitration.

OTHER ISSUES CONSIDERED AND DECIDED

On or about September 27, 2005 Claimant notified NASD Dispute Resolution that the parties settled this matter.

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

The parties entered into an agreement to present to the Panel a Stipulated Award. Now, in lieu of a hearing and upon motion of both parties for an entry of an award, the written stipulation thereto, the Panel grants the motion and enters this award granting the following relief:

1. Claimant's claims are dismissed, with prejudice, in their entirety.
2. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Howard M. Lippman's registration records maintained by the Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notices to Members 04-16, Respondent Howard M. Lippman 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 NASD as an additional party and serve NASD with all appropriate documents.

Pursuant to Rule 2130 of the NASD Code of Arbitration Procedure, the arbitration panel has made the following affirmative findings of fact:

The claim, allegation, or information is clearly erroneous.

3. The parties shall bear their respective costs and attorneys' fees.
4. Any and all reliefs not specifically addressed herein, including punitive damages, is denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Dispute Resolution, Inc. will retain or collect the non-refundable filing fees for each claim:

Initial claim filing fee	= \$ 375.00
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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. In this matter, the member firm Merrill Lynch Pierce Fenner & Smith is a party.

Member Surcharge	= \$2,250.00
Pre-Hearing Process Fee	= \$ 750.00
Hearing Process Fee	= \$4,000.00

Forum Fees and Assessments

The 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. Forum fees associated with these proceedings are:

Two (2) Pre-hearing conference sessions with the Panel @ \$1,200.00/session	= \$2,400.00
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Pre-hearing conference:	March 21, 2005	1 session
	August 16, 2005	1 session

One (1) Hearing session @ \$1,200.00/session	
	March 16, 2006 1 session = \$1,200.00

Total Forum Fees	= \$3,600.00
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1. The Panel has assessed \$600.00 of the forum fees against Claimant for the August 16, 2005 pre-hearing conference.
2. The Panel has assessed \$600.00 of the forum fees jointly and severally against Respondents for the August 16, 2005 pre-hearing conference.
3. In accordance with Rule 10306, \$400.00 of the forum fees is assessed against Claimant for the March 21, 2005 pre-hearing conference.

4. In accordance with Rule 10306, \$400.00 of the forum fees is assessed against Respondent MLPFS for the March 21, 2005 pre-hearing conference.
5. In accordance with Rule 10306, \$400.00 of the forum fees is assessed against Respondent Lippman for the March 21, 2005 pre-hearing conference.
6. The Panel has assessed \$1,200.00 of the forum fees against Respondent MLPFS for the March 16, 2006 hearing.

Fee Summary

1. Claimant is solely liable for:

Initial Filing Fee	= \$ 375.00
<u>Forum Fees</u>	<u>= \$1,000.00</u>
Total Fees	= \$1,375.00
<u>Less payments</u>	<u>= \$1,575.00</u>
Refund Due Claimant	= \$ 200.00

2. Respondent MLPFS is solely liable for:

Member Fees	= \$7,000.00
<u>Forum Fees</u>	<u>= \$1,600.00</u>
Total Fees	= \$8,600.00
<u>Less payments</u>	<u>= \$7,000.00</u>
Balance Due NASD Dispute Resolution	= \$1,600.00

3. Respondent Lippman is solely liable for:

<u>Forum Fees</u>	<u>= \$ 400.00</u>
Total Fees	= \$ 400.00
<u>Less payments</u>	<u>= \$ 0.00</u>
Balance Due NASD Dispute Resolution	= \$ 400.00

4. Respondents MLPFS and Lippman are jointly and severally liable for:

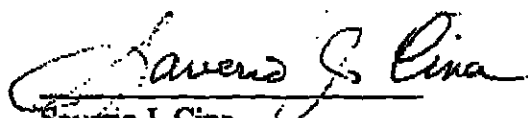
<u>Forum Fees</u>	<u>= \$ 600.00</u>
Total Fees	= \$ 600.00
<u>Less payments</u>	<u>= \$ 0.00</u>
Balance Due NASD Dispute Resolution, Inc.	= \$ 600.00

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

ARBITRATION PANEL

Saverio J. Cina	-	Public Arbitrator, Presiding Chairperson
David C. Carter	-	Public Arbitrator
W. Jeffrey Weinlandt	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures


Saverio J. Cina
Public Arbitrator, Presiding Chair

5/12/06
Signature Date

David C. Carter
Public Arbitrator

Signature Date

W. Jeffrey Weinlandt
Non-Public Arbitrator

Signature Date

May 18, 2006
Date of Service (For NASD office use only)

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David C. Carter	-	Public Arbitrator
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Public Arbitrator, Presiding Chair

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David C. Carter
Public Arbitrator

Signature Date

W. Jeffrey Weinlandt
W. Jeffrey Weinlandt
Non-Public Arbitrator

MAY 19, 2006
Signature Date

May 18, 2006
Date of Service (For NASD office use only)