
Stipulated Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Names of the Claimants

Case Number: 04-08776

Mr. John W. Speer and
Mrs. Jennifer Speer;
Mr. John W. Speer and
Mrs. Jennifer Speer, JTWROS; and
Ange J. Speer Dec'd IRA FBO
Mr. John W. Speer as Beneficiary

Names of the Respondents

Hearing Site: Boca Raton, Florida

Merrill Lynch
Charles R. Mayn

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

REPRESENTATION OF PARTIES

For Mr. John W. Speer and Mrs. Jennifer Speer; Mr. John W. Speer and Mrs. Jennifer Speer, JTWROS; and, Ange J. Speer Dec'd IRA FBO Mr. John W. Speer as Beneficiary, hereinafter collectively referred to as "Claimants": Devon G. Coughlan, Esq., Elk, Bankier, Christu & Bakst, LLP, Boca Raton, Florida.

For Merrill Lynch ("Merrill") and Charles R. Mayn ("Mayn"), hereinafter collectively referred to as "Respondents": Craig R. Glasser, Esq., Baritz & Colman, LLP, Boca Raton, Florida.

CASE INFORMATION

Statement of Claim filed on or about: December 30, 2004.

Claimants signed the Uniform Submission Agreement: December 29, 2004.

Answer and Affirmative Defenses filed by Respondents on or about: March 24, 2005.

Respondent Merrill signed the Uniform Submission Agreement: February 8, 2005.

Respondent Mayn signed the Uniform Submission Agreement: May 4, 2005.

Amended Statement of Claim filed by Claimants on or about January 11, 2006.

CASE SUMMARY

Claimants asserted the following causes of action: 1) unsuitability; omissions and misrepresentations; 2) breach of fiduciary duty; and, 3) negligent supervision. The causes of action relate to Claimants' investments in common stock, including but not limited to, Enron, Provident and Openwave.

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

RELIEF REQUESTED

Claimants requested compensatory damages in the amount of \$190,857.00.

Respondents requested: 1) dismissal of the Statement of Claim, in its entirety; 2) an Order providing for the expungement of this matter from the NASD Central Registration Depository ("CRD") records of Respondent Mayn; 3) the assessment of all costs and forum fees incurred in connection with this matter against Claimants; and, 4) such other and further relief as the undersigned arbitrators (the "Panel") deemed just and proper.

OTHER ISSUES CONSIDERED AND DECIDED

On or about January 3, 2006, Claimants filed their Notice of Dismissal as to Respondent Mayn.

On or about February 14, 2006, Claimants notified NASD Dispute Resolution that the parties had settled this matter and agreed to the entry of a Stipulated Award.

Claimant and Respondent Merrill resolved this matter on February 7, 2006. The only issue presented to the Panel was this Stipulated Award relating to expungement.

On or about February 27, 2006, the parties filed a proposed Stipulated Award with a request for expungement of the NASD CRD record of Respondent Mayn.

The parties agreed that the Stipulated Award in this matter may be executed in counterpart copies.

AWARD

After considering the pleadings and the parties' proposed Stipulated Award, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Claimants' dismissal of claims is accepted and Respondents are dismissed from this matter with prejudice.
2. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Mayn's registration records maintained by the CRD, with the understanding that pursuant to NASD Notice to Members 04-16, Respondent Mayn 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, the arbitration panel has made the following affirmative findings of fact:

The registered person was not involved in the alleged investment-related sales practice violation, forgery, theft, misappropriation, or conversion of funds.

3. All other claims for relief which are not addressed specifically in this Award are denied with prejudice.

FEES

Pursuant to the NASD Code of Arbitration Procedure (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(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute. Accordingly, Respondent Merrill is a party and was a member firm.

Member surcharge	= \$1,700.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$2,750.00
Total Member Fees	= \$5,200.00

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

There were no adjournment fees assessed during this proceeding.

Three-Day Cancellation Fees

Fees apply when a hearing on the merits is postponed or settled within three business days before the start of a scheduled hearing session:

There were no three-day cancellation fees assessed during this proceeding.

Injunctive Relief Fees

Injunctive relief fees are assessed to each member or associated person who files for a temporary injunction in court. Parties in these cases are also assessed arbitrator travel expenses and costs when an arbitrator is required to travel outside his or her hearing location and additional arbitrator honoraria for the hearing for permanent injunction. These fees, except the injunctive relief surcharge, are assessed equally against each party unless otherwise directed by the panel.

There were no injunctive relief fees assessed during this proceeding.

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 the Panel @ \$1,125.00/session = \$1,125.00
Pre-hearing conference: May 31, 2005 1 session

Total Forum Fees = \$1,125.00

The Panel has assessed \$562.50 of the forum fees to Claimants, jointly and severally.
The Panel has assessed \$562.50 of the forum fees to Respondents, jointly and severally.

Administrative Costs

Administrative costs are expenses incurred due to a request by a party for special services beyond the normal administrative services. These include, but not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

There were no administrative costs incurred during this proceeding.

Fee Summary

Claimants are jointly and severally liable for:

Initial Filing Fee	= \$ 300.00
<u>Forum Fees</u>	= \$ 562.50
Total Fees	= \$ 862.50
<u>Less payments</u>	= \$ 862.50
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondent Merrill is solely liable for:

<u>Member Fees</u>	= \$5,200.00
Total Fees	= \$5,200.00
<u>Less payments</u>	= \$5,200.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondents are jointly and severally liable for:

<u>Forum Fees</u>	= \$ 562.50
Total Fees	= \$ 562.50
<u>Less payments</u>	= \$ 0.00
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

<i>Louis Moroff</i>	-	<i>Public Arbitrator, Presiding Chairperson</i>
<i>Don R. Harris</i>	-	<i>Public Arbitrator</i>
<i>Michele Y. Garelick</i>	-	<i>Non-Public Arbitrator</i>

Concurring Arbitrators' Signatures

_____/s/_____
Louis Moroff
Public Arbitrator, Presiding Chairperson

3/1/06
Signature Date

_____/s/_____
Don R. Harris
Public Arbitrator

3/2/06
Signature Date

_____/s/_____
Michele Y. Garelick
Public Arbitrator

3/2/06
Signature Date

3/2/06
Date of Service (For NASD Dispute Resolution office use only)

Mar. 1, 2006, 2:13PM

No. 1267 P. 6/6

Dispute Resolution

Arbitration No. 04-08776

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Concurring Arbitrators' Signatures

Louis Moroff

Public Arbitrator, Presiding Chairperson



Signature Date

Don R. Harris

Public Arbitrator

Signature Date

Michele Y. Garelick

Public Arbitrator

Signature Date

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

Mar. 1, 2006 3:06PMolution

No. 1278 P. 6

Arbitration No. 04-08776

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Concurring Arbitrators' Signatures

Louis Moroff

Public Arbitrator, Presiding Chairperson

Signature Date

 3/2/06

Signature Date

Don R. Harris

Public Arbitrator

Michele Y. Garelick

Public Arbitrator

Signature Date

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

Mar. 1. 2006 2:20PM

NASD Dispute Resolution

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No. 1284 P. 6

Concurring Arbitrators' Signatures

Louis Moroff

Public Arbitrator, Presiding Chairperson

Signature Date

Don R. Harris

Public Arbitrator

Signature Date

Michèle Y. Garelick
Michèle Y. Garelick
Public Arbitrator

3/2/06
Signature Date

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