

NASD DISPUTE RESOLUTION

3

Statement of Answer filed by Respondents on: April 18, 2005. Respondents' First Amended Statement of Answer filed on: May 9, 2005. Motion to Dismiss or, Alternatively, for Summary Judgment filed n: January 10, 2006. Merrill Lynch's Submission Agreement signed on: March 18, 2005. Tramontano's Submission Agreement signed on: May 3, 2005. Rankin did not file an executed Submission Agreement.

CASE SUMMARY

Claimants asserted various claims and causes of action in connection with an investment account, including: (i) common law fraud, (ii) breach of fiduciary duty, (iii) Texas Deceptive Trade Practices Act (DTPA), and (iv) negligence.

Respondents denied all of the claims in the Statement of Claim and asserted various affirmative defenses thereto.

RELIEF REQUESTED

Claimants requested the following damages:

Actual Damages	\$153,101.29
Attorneys' fees and costs	Amount unspecified
Punitive damages	Amount unspecified
Pre- and post-judgment interest	Amount unspecified

Respondents requested that Claimants' Statement of Claim be denied and dismissed against all parties with prejudice.

AWARD

On the dates set forth below, the parties entered into an agreement to present to the Panel a Stipulated Award. Now, in lieu of a hearing and upon joint motion of Claimants and Respondents for entry of an award and the written stipulation thereto, the Panel hereby grants the motion and enters this award granting the following relief:

- 1) Any and all claims against Respondents Merrill Lynch, Pierce, Fenner & Smith Incorporated, Gene Rankin and Michael A. Tramontano are dismissed with prejudice. Claimants and Respondents have entered into a confidential settlement agreement.
- 2) The parties shall bear their own costs and expenses associated with the above-referenced arbitration.
- 3) Any and all relief not specifically addressed herein 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
--------------------------	-------------

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 persons at the time of the events giving rise to the dispute. Accordingly, Merrill Lynch, Pierce, Fenner & Smith Incorporated is a party and the following member fees are assessed:

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 or each decision rendered on a discovery-related motion on the papers. 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
Pre-hearing conference: July 12, 2005 1 session	
<hr/> Total Forum Fees	<hr/> = \$ 1,125.00

The Panel has assessed the following forum fees: 1) \$281.25 to Claimant Charlotte Dianne McKinley; 2) \$281.25 to Claimant The Loutticia T. Kalil Revocable Living Trust a/k/a The Loutticia T. Kalil Trust U/A Dated 3/21/1997; 3) \$187.50 to Respondent Merrill Lynch, Pierce, Fenner & Smith Incorporated; \$187.50 to Respondent Gene Rankin; and \$187.50 to Respondent Michael A. Tramontano.

FEE SUMMARY

Claimant Charlotte Dianne McKinley is solely liable for:

Forum Fees	= \$ 281.25
<u>Less payments</u>	<u>= \$ 281.25</u>
Balance Due NASD Dispute Resolution	= \$ 0.00

Claimant The Loutticia T. Kalil Revocable Living Trust a/k/a The Loutticia T. Kalil Trust U/A
Dated 3/21/1997 is solely liable for:

Forum Fees	= \$ 281.25
<u>Less payments</u>	<u>= \$ 281.25</u>
Balance Due NASD Dispute Resolution	= \$ 0.00

Claimants Charlotte Dianne McKinley and The Loutticia T. Kalil Revocable Living Trust
a/k/a The Loutticia T. Kalil Trust U/A Dated 3/21/1997 are jointly and severally liable for:

Initial Filing Fee	= \$ 300.00
<u>Less Funds Remaining</u>	<u>= \$ 862.50</u>
Balance Refunded by NASD Dispute Resolution	= \$ 562.50

Respondent Merrill Lynch, Pierce, Fenner & Smith Incorporated is solely liable for:

Member Fees	= \$ 5,200.00
Forum Fees	= \$ 187.50
<u>Total Fees</u>	<u>= \$ 5,387.50</u>
<u>Less payments</u>	<u>= \$ 5,950.00</u>
Balance Refunded by NASD Dispute Resolution	= \$ 562.50

Respondent Gene Rankin is solely liable for:

Forum Fees	= \$ 187.50
<u>Less payments</u>	<u>= \$ 0.00</u>
Balance Due NASD Dispute Resolution	= \$ 187.50

Respondent Michael A. Tramontano is solely liable for:

Forum Fees	= \$ 187.50
<u>Less payments</u>	<u>= \$ 0.00</u>
Balance Due NASD Dispute Resolution	= \$ 187.50

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

PARTIES' SIGNATURES

Gershon D. Cohen
Attorney for Claimants
Charlotte Dianne McKinley, individually,
and on behalf of The Loutticia T. Kalil
Revocable Living Trust a/k/a The Loutticia
T. Kalil Trust U/A Dated 3/21/1997

Date

Joel R. Sharp
Attorney for Respondents
Merrill Lynch, Pierce, Fenner & Smith Incorporated,
Gene Rankin and Michael A. Tramontano

Date

ARBITRATION PANEL

Maryanne M. Esser - Public Arbitrator, Presiding Chair
Ted Martin Akin - Public Arbitrator
Raul Antonio Canez - Industry Arbitrator

Concurring Arbitrators' Signatures

Maryanne M. Esser, Esq.
Public Arbitrator, Presiding Chair

Date

Ted Martin Akin, J.D.
Public Arbitrator

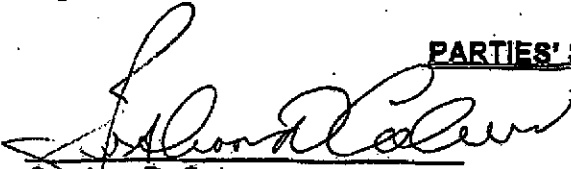
Date

Raul Antonio Canez, Esq.
Industry Arbitrator

Date

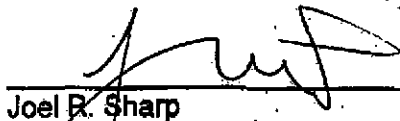
Date Stipulated Award Served by NASD

PARTIES' SIGNATURES



Gershon D. Cohen
Attorney for Claimants
Charlotte Dianne McKinley, Individually,
and on behalf of The Loutticia T. Kalll
Revocable Living Trust a/k/a The Loutticia
T. Kalll Trust U/A Dated 3/21/1997

8/1/06
Date



Joel R. Sharp
Attorney for Respondents
Merrill Lynch, Pierce, Fenner & Smith Incorporated,
Gene Rankin and Michael A. Tramontano

8/7/06
Date

ARBITRATION PANEL

Maryanne M. Esser - Public Arbitrator, Presiding Chair
Ted Martin Akin - Public Arbitrator
Raul Antonio Canez - Industry Arbitrator

Concurring Arbitrators' Signatures

Maryanne M. Esser, Esq.
Public Arbitrator, Presiding Chair

Date

Ted Martin Akin, J.D.
Public Arbitrator

Date

Raul Antonio Canez, Esq.
Industry Arbitrator

Date

8/9/06 R/A
Date Stipulated Award Served by NASD

PARTIES' SIGNATURES

Gershon D. Cohen
Attorney for Claimants
Charlotte Dianne McKinley, individually,
and on behalf of The Loutticia T. Kalil
Revocable Living Trust a/k/a The Loutticia
T. Kalil Trust U/A Dated 3/21/1997

Date

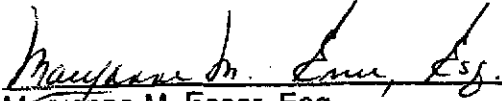
Joel R. Sharp
Attorney for Respondents
Merrill Lynch, Pierce, Fenner & Smith Incorporated,
Gene Rankin and Michael A. Tramontano

Date

ARBITRATION PANEL

Maryanne M. Esser - Public Arbitrator, Presiding Chair
Ted Martin Akin - Public Arbitrator
Raul Antonio Canez - Industry Arbitrator

Concurring Arbitrators' Signatures



Maryanne M. Esser, Esq.
Public Arbitrator, Presiding Chair



Date

Ted Martin Akin, J.D.
Public Arbitrator

Date

Raul Antonio Canez, Esq.
Industry Arbitrator

Date



Date Stipulated Award Served by NASD

NASD Dispute Resolution
Arbitration No. 05-00954
Page 5 of 5

PARTIES' SIGNATURES

Gershon D. Cohen
Attorney for Claimants
Charlotte Dianne McKinley, individually,
and on behalf of The Louticia T. Kalil
Revocable Living Trust a/k/a The Louticia
T. Kalil Trust U/A Dated 3/21/1997

Date

Joe R. Sharp
Attorney for Respondents
Merrill Lynch, Pierce, Fenner & Smith Incorporated,
Gene Rankin and Michael A. Tramontano

Date

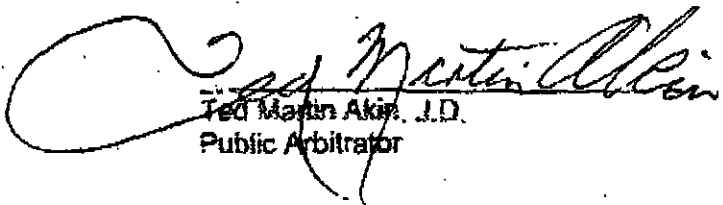
ARBITRATION PANEL

Maryanne M. Esser - Public Arbitrator, Presiding Chair
Ted Martin Akin - Public Arbitrator
Raul Antonio Canez - Industry Arbitrator

Concurring Arbitrators' Signatures

Maryanne M. Esser, Esq.
Public Arbitrator, Presiding Chair

Date



Ted Martin Akin, J.D.
Public Arbitrator

7-21-06
Date

Raul Antonio Canez, Esq.
Industry Arbitrator

Date

8/9/06 Mar

Date Stipulated Award Served by NASD

NASD Dispute Resolution
Arbitration No. 05-00954
Page 5 of 5

PARTIES' SIGNATURES

Gershon D. Cohen
Attorney for Claimants
Charlotte Dianne McKinley, individually,
and on behalf of The Loutticia T. Kalil
Revocable Living Trust a/k/a The Loutticia
T. Kalil Trust U/A Dated 3/21/1997

Date

NASD Dispute Resolution, Inc.
RECEIVED
JUL 24 2006

Joel R. Sharp
Attorney for Respondents
Merrill Lynch, Pierce, Fenner & Smith Incorporated,
Gene Rankin and Michael A. Tramontano

Date

ARBITRATION PANEL

Maryanne M. Esser - Public Arbitrator, Presiding Chair
Ted Martin Akin - Public Arbitrator
Raul Antonio Canez - Industry Arbitrator

Concurring Arbitrators' Signatures

Maryanne M. Esser, Esq.
Public Arbitrator, Presiding Chair

Date

Ted Martin Akin, J.D.
Public Arbitrator

Date



Raul Antonio Canez, Esq.
Industry Arbitrator



Date

8/9/06 Mar

Date Stipulated Award Served by NASD