

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Rizalina Llanes-Rodas, Claimant v. Merrill Lynch, Pierce, Fenner & Smith Incorporated, and
David Von Stahle Respondents

Case Number: 05-01587

Hearing Site: Phoenix, Arizona

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

REPRESENTATION OF PARTIES

For Claimant:

Dennis J. Flynn, Esq.
Attorney at Law
Scottsdale, Arizona

For Respondents:

Christopher S. Coleman, Esq.
Perkins Coie Brown & Bain
Phoenix, Arizona

CASE INFORMATION

Statement of Claim filed: March 23, 2005

Claimant's Uniform Submission Agreement signed: March 22, 2005

Joint Statement of Answer filed by Respondents: May 20, 2005

Respondent Merrill Lynch, Pierce, Fenner & Smith Incorporated's Uniform Submission
Agreement signed: April 18, 2005

Respondent David Von Stahle's Uniform Submission Agreement signed: May 5, 2005

CASE SUMMARY

Claimant alleged fraud, failure to execute, unsuitable investments, unauthorized trading or retention of investments, breach of contracts, breach of fiduciary duty, falsification of investment documents, forgery, improper annuity switch, misrepresentations and failure to supervise involving investments in Equitable Variable Annuities.

Respondents denied the allegations of wrongdoing set forth in the Claimant's Statement of Claim.

RELIEF REQUESTED

Claimant requested \$625,000.00 in compensatory damages, \$500,000.00 punitive damages, \$250,000.00 in pre-judgment interest and costs, including attorney's fees.

Respondents requested dismissal of the Claimant's Statement of Claim in its entirety, and such other relief as the Panel may deem just and proper.

OTHER ISSUES CONSIDERED AND DECIDED

On the first day of the evidentiary hearing, Claimant presented a Motion to Strike. Respondent opposed the motion. After due deliberation, the Panel denied the motion.

On the first day of the evidentiary hearing, Claimant renewed a request for an Order Issuing Sanctions against Respondent. Both parties presented oral argument. The Panel took the matter under advisement. After due deliberation of the evidence, witnesses and testimony presented by the parties in this matter, the Panel denied the motion.

On the morning of March 8, 2006, one of the Panel members, arbitrator John V. Marion, withdrew from the Arbitration Panel due to sudden illness. The claimant advised the Panel in writing that, pursuant to Rule 10313 of the *Code* Claimant elected to proceed with the remaining members of the Panel. Respondent also agreed to proceed with the remaining members of the Panel.

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

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

- 1) Claimant's claims are denied in their entirety.
- 2) The parties shall bear their respective costs, including attorney's fees.
- 3) The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent David Von Stahle's registration records maintained by the Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 04-16, Respondent David Von Stahle 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 claim is clearly erroneous.

- 4) All other relief requested and not expressly granted is denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Dispute Resolution received or will collect the non-refundable filing fees for each claim as follows:

Initial claim filing fee	= \$ 500.00
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Member Fees

Member fees are assessed to each member firm that is either a party in the matter or an employer of a respondent associated person at the time of the events that gave rise to the dispute, claim, or controversy. Accordingly, the member firm Merrill Lynch, Pierce, Fenner & Smith Incorporated is a party and the following fees are assessed:

Member Surcharge	= \$2,800.00
Pre-Hearing Process Fee	= \$ 750.00
Hearing Process Fee	= \$5,000.00
Total Member Fees	= \$8,500.00

Forum Fees and Assessments

The Panel assessed a forum fee for each pre-hearing conference or hearing session conducted. A pre-hearing conference and hearing session is any meeting between the parties and the Chair or the parties and the Panel. The following fees are assessed:

(1) Pre-hearing conference session with a single arbitrator @ \$ 450.00/session	= \$ 450.00
Pre-hearing conference: January 12, 2006	1 session
(2) Pre-hearing conference session with the Panel @ \$1,200.00/session	= \$ 2,400.00
Pre-hearing conference: July 15, 2005	1 session
February 2, 2006	1 session
(14) Hearing sessions @ \$1,200.00/session	= \$16,800.00
Hearings: January 25, 2006	2 sessions
January 26, 2006	2 sessions
January 27, 2006	2 sessions
March 7, 2006	2 sessions
March 8, 2006	2 sessions
March 9, 2006	2 sessions
March 10, 2006	2 sessions

Total Forum Fees	= \$ 19,650.00
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1. The Panel assessed \$9,825.00 of the forum fees to Claimant.
2. The Panel assessed \$9,825.00 of the forum fees jointly and severally to Respondents.

Administrative Costs

Administrative costs are expenses incurred because a party requested additional services beyond the normal administrative services. These additional services include, but are not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, security, and sundry other requests.

Respondent Merrill Lynch, Pierce, Fenner & Smith Incorporated requested copies of 16 audio transcripts @ \$15.00 each = \$ 240.00

Fee Summary

1. Claimant is charged with the following fees and costs:

Initial Filing Fee	= \$ 500.00
Forum Fees	= \$ 9,825.00
Total Fees	= \$10,325.00
Less payments	= \$(1,700.00)
Balance Due NASD Dispute Resolution	= \$ 8,625.00

2. Respondent Merrill Lynch, Pierce, Fenner & Smith Incorporated is charged with the following fees and costs:

Member Fees	= \$ 8,500.00
Administrative Costs	= \$ 240.00
Total Fees	= \$ 8,790.00
Less payments	= \$(8,790.00)
Balance Due NASD Dispute Resolution	= \$ 0.00

3. Respondents are charged jointly and severally with the following fees and costs:

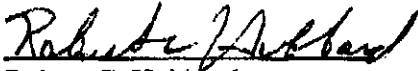
Forum Fees	= \$ 9,825.00
Balance Due NASD Dispute Resolution	= \$ 9,825.00

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

ARBITRATION PANEL

Robert C. Hubbard	-	Public Arbitrator, Presiding Chair
Robert Miller Lawder, CLU	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures



Robert C. Hubbard
Chair, Public Arbitrator

3/17/06
Signature Date

Robert Miller Lawder, CLU
Non-Public Arbitrator

Signature Date

3/17/06
Date of Service

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Robert Miller Lawder CLU

Robert Miller Lawder, CLU
Non-Public Arbitrator

3-16-2006
Signature Date

3/17/06
Date of Service