

**Award
NASD Dispute Resolution**

In the Matter of the Arbitration Between:

Names of Claimants

Case Number: 05-02267

Arthur H. Weyrauch

Mary T. Weyrauch

Mary T. Weyrauch TTEE, U/A DTD

12/16/2000 by Arthur H. Weyrauch FIT

Arthur H. Weyrauch TTEE U/A DTD

12/18/2000 by Mary T. Weyrauch FIT

Name of Respondent

Hearing Site: Tampa, Florida

Merrill Lynch, Pierce, Fenner & Smith, Inc.

Nature of the Dispute: Customer vs. Member.

REPRESENTATION OF PARTIES

Arthur H. Weyrauch, Mary T. Weyrauch, Mary T. Weyrauch TTEE U/A DTD 12/16/2000 by Arthur H. Weyrauch FIT, Arthur H. Weyrauch TTEE U/A DTD 12/18/2000 by Mary T. Weyrauch FIT, hereinafter collectively referred to as "Claimants": Stuart C. Goldberg, Esq., Senior Counsel, and Seth E. Lipner, Esq., Deutsch & Lipner, Garden City, New York.

For Merrill Lynch, Pierce, Fenner & Smith, Inc. ("MLPFS"), hereinafter referred to as "Respondent": Nicholas P. Crowell, Esq., Sidley Austin, L.L.P., New York, New York.

CASE INFORMATION

Statement of Claim filed on or about: April 25, 2005.

Claimants signed Uniform Submission Agreements on: April 27, 2005.

Statement of Answer filed by Respondent on or about: July 29, 2005.

Respondent signed the Uniform Submission Agreement on: August 20, 2005.

CASE SUMMARY

Claimants asserted the following causes of action: 1) negligence; 2) violation of NASD Rule 2130, unsuitability; 3) failure to supervise; 4) breach of contract; 5) breach of fiduciary duty; 6) omission of facts; 7) misrepresentations; and, 8) fraud under the Florida Securities and Investor Protection Act, Section 517.301, Fla. Stat. The causes of action relate to the conversion of Claimants' shares of stock from non-public UPS "A" shares to publicly-traded "B" shares.

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

RELIEF REQUESTED

Claimants requested: 1) compensatory damages in the amount of \$3,195,629.95; 2) compensatory damages based upon an alternative computation of the replacement cost of fifty thousand (50,000) shares of UPS stock; 3) compensatory damages based upon adverse tax consequences; 4) losses, not yet calculated, on the prepaid put and/or other outstanding derivative position; 5) interest from December 31, 2004, up to the date of any arbitration award herein; 6) costs of this proceeding; 7) attorneys' fees; 8) punitive damages; and, 9) such other relief that shall seem just and equitable to the Panel.

Respondent requested: 1) dismissal of the Statement of Claim in its entirety; 2) attorneys' fees; 3) costs; 4) disbursements; and, 5) forum fees.

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.

During the evidentiary hearing, Claimants objected to Respondent's attorney-issued subpoena and requested the Panel to make a finding that the subpoena was invalid under New York law. The Panel deliberated and thereafter ruled that Respondent's attorney-issued subpoena was invalid.

AWARD

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

Respondent is liable on the claims of failure to supervise and breach of fiduciary duty. As such, Respondent shall pay to Claimants compensatory damages in the amount of \$909,594.00, pre-judgment interest denied.

Claimants' request for attorneys' fees is granted. Respondent is liable and shall pay to Claimants seventy-five percent (75%) of their reasonable attorneys' fees pursuant to Section 517.211 of the Florida Statutes, with the amount to be determined by a court of competent jurisdiction.

Any and all claims for relief not specifically addressed herein, including Claimants' claims for relief under Section 517.301 of the Florida Statutes, Claimants' request for punitive damages and Respondent's request for attorneys' fees, are denied.

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	= \$ 600.00
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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, Respondent MLPFS is a party and a member firm.

Member surcharge	= \$2,800.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$5,000.00
<u>Total Member Fees</u>	<u>= \$8,550.00</u>

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

There were no adjournments requested during these proceedings for which fees were assessed.

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 these proceedings.

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 these proceedings.

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 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 a single arbitrator @ \$450.00/session	= \$ 450.00
Pre-hearing conference: March 27, 2006	1 session

One (1) Pre-hearing session with Panel @ \$1,200.00/session = \$ 1,200.00
Pre-hearing conference: September 26, 2005 1 session

Eight (8) Hearing sessions @ \$1,200.00/session = \$ 9,600.00

Hearing Dates: June 13, 2006 2 sessions
June 14, 2006 2 sessions
June 15, 2006 2 sessions
June 16, 2006 2 sessions

Total Forum Fees = \$11,250.00

The Panel has assessed \$5,625.00 of the forum fees to Claimants, jointly and severally.

The Panel has assessed \$5,625.00 of the forum fees to Respondent.

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 these proceedings.

Fee Summary

Claimants are jointly and severally liable for:

Initial Filing Fee	= \$ 600.00
Forum Fees	= \$ 5,625.00
Total Fees	= \$ 6,225.00
Less payments	= \$ 1,900.00
Balance Due NASD Dispute Resolution	= \$ 4,325.00

Respondent is solely liable for:

Member Fees	= \$ 8,550.00
Forum Fees	= \$ 5,625.00
Total Fees	= \$14,175.00
Less payments	= \$ 8,550.00
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

Philip C. Bennett, CPA	-	Public Arbitrator, Presiding Chairperson
Marc Gertner, Esq.	-	Public Arbitrator
John W. Platt	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

/s/
Philip C. Bennett, CPA
Public Arbitrator, Presiding Chairperson

June 23, 2006
Signature Date

/s/
Marc Gertner, Esq.
Public Arbitrator

June 23, 2006
Signature Date

/s/
John W. Platt
Non-Public Arbitrator

June 23, 2006
Signature Date

June 23, 2006
Date of Service (For NASD Dispute Resolution office use only)

Concurring Arbitrators' Signatures

Public Arbitrator, Presiding Chairperson

Signature Date

Public Arbitrator

Signature Date

Non-Public Arbitrator

Signature Date

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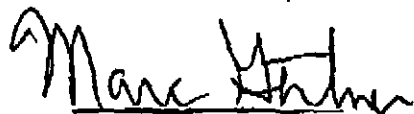
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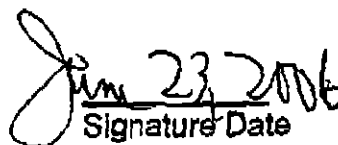
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Public Arbitrator, Presiding Chairperson

Signature Date



Marc Gertner, Esq.
Public Arbitrator


Signature Date

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