

Award
NASD Dispute Resolution

COPY

In the Matter of the Arbitration Between:

William Feinstein, Claimant v. Merrill Lynch, Pierce, Fenner & Smith, Incorporated,
Respondent

Case Number: 05-02377

Hearing Site: Los Angeles, California

Nature of the Dispute: Customer v. Member

REPRESENTATION OF PARTIES

For Claimant:

William Feinstein, Esq.
Law Offices of William Feinstein
Newbury Park, California

For Respondent:

Robert B. Ericson, Esq.
Bingham & McCutchen, LLP
Los Angeles, California

CASE INFORMATION

Statement of Claim filed: May 2, 2005

Claimant's Uniform Submission Agreement signed: April 30, 2005

Statement of Answer filed: July 29, 2005

Respondent's Uniform Submission Agreement signed: July 29, 2005

CASE SUMMARY

Claimant alleged breach of fiduciary duty, fraud, violation of state law (securities fraud), and negligence. Claimant's allegations involved the purchase of securities in Tyco International.

Respondent denied the allegations of wrongdoing set forth in Claimant's Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

Claimant requested \$95,200.00 in compensatory damages, exemplary damages, and pre-judgment interest in of 10% per annum from June 30, 2002, and costs, including attorney's fees.

Respondent requested dismissal of Claimant's Statement of Claim in its entirety.

OTHER ISSUES CONSIDERED AND DECIDED

On September 21, 2006, after Claimant rested his case, Respondent moved the Panel to dismiss the Statement of Claim on the grounds that Claimant had failed to prove any cause of action. After due deliberation of the evidence, witnesses, and testimony presented by the parties in this matter, the Panel granted the motion.

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) 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	=	Waived
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Member Fee

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	=	\$1,100.00
Pre-Hearing Process Fee	=	\$ 750.00
Hearing Process Fee	=	\$1,700.00
Total Member Fees	=	\$3,550.00

Forum Fees and Assessments

The Panel 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, that lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) Pre-hearing conference session with a single arbitrator @ \$450.00/session	=	\$ 450.00
Pre-hearing conference: August 1, 2006	1 session	

One (1) Pre-hearing conference session with the Panel @ \$750.00/session	=	\$ 750.00
Pre-hearing conference: January 12, 2006	1 session	

Seven (7) Hearing sessions @ \$750.00/session	=	\$5,250.00
Hearings: September 18, 2006	2 sessions	
September 19, 2006	2 sessions	
September 19, 2006	2 sessions	
September 21, 2006	1 session	

Total Forum Fees	=	\$6,450.00
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The Panel assessed the entire balance of the forum fees, in the amount of \$6,450.00 of to Claimant William Feinstein.

Fee Summary

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

Forum Fees	= \$ 6,450.00
Less payments	= \$ (0.00)
Balance Due NASD Dispute Resolution	= \$ 6,450.00

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

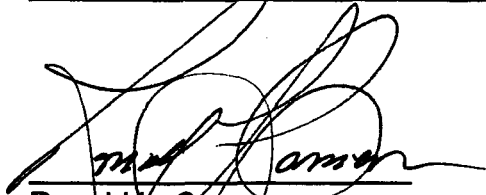
Member Fees	= \$ 3,550.00
Less payments	= \$(3,550.00)
Balance Due NASD Dispute Resolution	= \$ 0.00

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

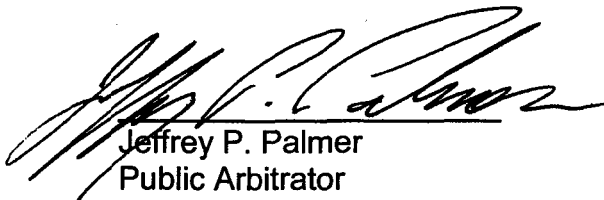
Ronald L. Cameron	-	Public Arbitrator, Presiding Chair
Jeffrey P. Palmer	-	Public Arbitrator
Linda L. Blackwell	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures



Ronald L. Cameron
Chair, Public Arbitrator

9/21/06
Signature Date



Jeffrey P. Palmer
Public Arbitrator

9-21-2006
Signature Date



Linda L. Blackwell
Non-Public Arbitrator

9-21-06
Signature Date

9/21/06
Date of Service