

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Sonja Mueller-Spiegel and Theodore Spiegel (Claimants) vs. Merrill Lynch, Pierce, Fenner & Smith, Inc. (Respondent)

Case Number: 05-02880

Hearing Site: New York, New York

Nature of the Dispute: Customers vs. Member.

REPRESENTATION OF PARTIES

Claimants Sonja Mueller-Spiegel ("Mueller-Spiegel") and Theodore Spiegel ("Spiegel") hereinafter referred to as "Claimants": William Paul Nolan, Esq., The Nolan Law Firm, New York, NY.

Respondent Merrill Lynch, Pierce, Fenner & Smith, Inc. hereinafter referred to as "Respondent": Robert E. Goldberg, Esq., Merrill Lynch, Pierce, Fenner & Smith, Inc., New York, NY. Previously represented by Brett Sherman, Esq., Merrill Lynch, Pierce, Fenner & Smith, Inc., New York, NY.

CASE INFORMATION

Statement of Claim filed on or about: June 1, 2005.

Mueller-Spiegel signed the Uniform Submission Agreement: May 23, 2005.

Spiegel signed the Uniform Submission Agreement: May 23, 2005.

Statement of Answer filed by Respondent on or about: January 9, 2006.

Respondent signed the Uniform Submission Agreement: January 6, 2006.

CASE SUMMARY

Claimants asserted the following causes of action: duty to supervise, common law fraud, misrepresentation, suitability, breach of contract, negligence, and violation of General Business Law § 349.

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 compensatory damages in the amount of \$292,069.05, unspecified punitive damages and reasonable attorneys' fees.

Respondent requested the dismissal with prejudice of the statement of claim in its entirety, reimbursement of costs, expenses, attorney's fees and expert witness fees incurred in connection with the defense of this matter and such further relief as is deemed proper.

OTHER ISSUES CONSIDERED AND DECIDED

At the hearing, Respondent moved for the Panel to expunge the CRD record of Nicholas Domini. After due deliberation, the Panel granted the motion.

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.

AWARD

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

1. Claimants' claims are denied in their entirety.
2. The Panel recommends the expungement of all reference to the above captioned arbitration from Nicholas Domini's registration records maintained by the Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 04-16, Nicholas Domini 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, allegation, or information is false.

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 person at the time of the events giving rise to the dispute. Accordingly, Merrill Lynch, Pierce, Fenner & Smith, Inc. is a party.

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

Forum Fees and Assessments

The Arbitrator 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:

Two (2) Pre-hearing session with a single arbitrator @ \$450.00	= \$900.00
Pre-hearing conferences:	
March 27, 2006	1 session
May 15, 2006	1 session
One (1) Pre-hearing session with Panel @ \$1,125.00	= \$1,125.00
Pre-hearing conferences:	
November 3, 2005	1 session
Five (5) Hearing sessions @ \$1,125.00	= \$5,625.00
Hearing Dates:	
May 16, 2006	2 sessions
May 17, 2006	2 sessions
May 18, 2006	1 session
Total Forum Fees	= \$7,650.00

1. The Panel has assessed \$5,100.00 of the forum fees to Claimants.
2. The Panel has assessed \$2,550.00 of the forum fees to Respondent.

Fee Summary

1. Claimants are solely liable for:

Initial Filing Fee	= \$ 300.00
Forum Fees	= \$5,100.00
Total Fees	= \$5,400.00
Less payments	= \$1,425.00
Balance Due NASD Dispute Resolution	= \$3,975.00

2. Respondent is solely liable for:

Member Fees	= \$5,200.00
Forum Fees	= \$2,550.00
Total Fees	= \$7,750.00
Less payments	= \$5,200.00
Balance Due NASD Dispute Resolution	= \$2,550.00

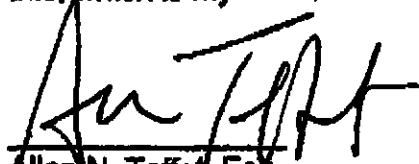
All balances are payable to NASD Dispute Resolution and are due upon receipt pursuant to Rule 10330(g) of the Code.

ARBITRATION PANEL

Allan N. Taffet, Esq.	-	Public Arbitrator, Presiding Chairperson
Arthur H. Stampelman	-	Public Arbitrator
Linda M. Parker	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

I, the undersigned Arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this, which is my award.



Allan N. Taffet, Esq.
Public Arbitrator, Presiding Chairperson

5/19/06
Signature Date

Arthur Stampelman
Public Arbitrator

Signature Date

Linda M. Parker
Non-public Arbitrator

Signature Date

May 23, 2006

Date of Service (For NASD Dispute Resolution use only)

ARBITRATION PANEL

Allan N. Taffet, Esq.	-	Public Arbitrator, Presiding Chairperson
Arthur H. Stampelman	-	Public Arbitrator
Linda M. Parker	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

I, the undersigned Arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this, which is my award.

Allan N. Taffet, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date



Arthur Stampelman
Public Arbitrator

May 19, 2006
Signature Date

Linda M. Parker
Non-public Arbitrator

Signature Date

May 23, 2006

Date of Service (For NASD Dispute Resolution use only)