

AWARD
NASD Dispute Resolution

In the Matter of the Arbitration Between

Name of Claimant

Khen Yu Ly

and

Case Number: 05-03072
Hearing Site: Houston, Texas

Names of Respondents

Merrill Lynch Pierce Fenner & Smith, Inc.
and Iain A. Sharpe

NATURE OF DISPUTE

Customer v. Member Firm and Associated Person

REPRESENTATION OF PARTIES

Khen Yu Ly ("**Claimant**") was represented by Jeffrey J. Tompkins, Esq., Houston, Texas.

Merrill Lynch Pierce Fenner & Smith, Inc. ("**Merrill Lynch**") and Iain A. Sharpe ("**Sharpe**"), hereinafter collectively referred to as "**Respondents**," were represented by Harry D. Frisch, Esq., Merrill Lynch Pierce Fenner & Smith, Inc., New York, New York.

CASE INFORMATION

The Statement of Claim was filed on or about June 14, 2005. The Submission Agreement of Claimant, Khen Yu Ly, was signed on or about May 27, 2005.

The Statement of Answer was filed jointly by Respondents, Merrill Lynch Pierce Fenner & Smith, Inc. and Iain A. Sharpe, on or about August 29, 2005. The Submission Agreement of Respondent, Merrill Lynch Pierce Fenner & Smith, Inc., was signed on or about September 1, 2005. The Submission Agreement of Respondent, Iain A. Sharpe, was signed on or about July 27, 2005.

CASE SUMMARY

Claimant asserted the following causes of action: breach of contract, negligence, failure to supervise, breach of fiduciary duty, violation of the Texas Securities Act, common law fraud, violation of the Texas Deceptive Trade Practices Act, negligence misrepresentation and unauthorized trading. The causes of action related to alleged unauthorized

investments made by Respondent Sharpe. Claimant alleged that Respondent Sharpe, without the authorization of Claimant, used money from Claimant's money market account to purchase securities referred to as "Western/Asset Claymore" and "6666 Calamos Strategic Total." Claimant alleged that he never received any confirmation or any other paperwork regarding these trades.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted affirmative defenses including the following: Claimant failed to state a claim upon which relief can be granted; Claimant's claims are barred in whole or in part by the applicable statutes of limitations; Claimant's claims are barred by the defenses of estoppel, waiver and laches; all losses allegedly suffered by Claimant were proximately caused by Claimant's own conduct or negligence; Claimant failed to mitigate his damages; and Claimant, acting with full knowledge and notice of the facts, authorized, ordered, approved, accepted, acquiesced, confirmed, and participated in and ratified the acts and transactions complained of upon which recovery is being sought.

RELIEF REQUESTED

Claimant requested an award in the amount of:

Actual/Compensatory Damages	\$39,470.27
Treble Damages	\$60,940.54
Interest	Unspecified
Attorneys' Fees	Unspecified
Other Costs	Unspecified
Other Monetary Relief	Unspecified

Respondents requested that the claims asserted against them be denied in their entirety and that they be awarded their costs and attorneys' fees. Also, the Respondent Sharpe requested that this claim be expunged from his CRD record.

OTHER ISSUES CONSIDERED & DECIDED

At the final hearing, Claimant presented the Panel with a Motion to Compel. The Panel ordered documents produced with a limitation of time. All documents were produced.

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. In either case, the parties have agreed to receive conformed copies of the award while the original(s) remain on file with NASD Dispute Resolution ("NASD").

AWARD

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

- 1.) Respondents, Merrill Lynch Pierce Fenner & Smith, Inc. and Iain A. Sharpe, are jointly and severally liable for and shall pay to Claimant, Khen Yu Ly, the sum of \$5,000.00 in compensatory damages;
- 2.) Respondents, Merrill Lynch Pierce Fenner & Smith, Inc. and Iain A. Sharpe, are jointly and severally liable for and shall pay to Claimant, Khen Yu Ly, interest on the above-stated sum at the rate of 5% per annum from and including March 1, 2004 through and including when the Award is paid in full;
- 3.) Respondents, Merrill Lynch Pierce Fenner & Smith, Inc. and Iain A. Sharpe, are jointly and severally liable for and shall pay to Claimant, Khen Yu Ly, the sum of \$225.00 in costs;
- 4.) Respondent, Iain A. Sharpe's, request for expungement is denied; and
- 5.) Any relief not specifically enumerated, including punitive damages and attorneys' fees, is hereby denied with prejudice.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Dispute Resolution will retain the non-refundable filing fee for each claim:

Initial claim filing fee = \$ 225.00

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. In this matter, the member firm is Merrill Lynch Pierce Fenner & Smith, Inc.

Member surcharge	= \$ 1,100.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$ 1,700.00

Adjournment Fees

Adjournments granted during these proceedings:

May 2-4, 2005, adjournment requested by Claimant	= \$ 750.00
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Forum Fees and Assessments

The Arbitration Panel assesses forum fees for each hearing session conducted. A hearing 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 Panel x \$750.00	= \$ 750.00
Pre-hearing conference: November 10, 2005	1 session
Four (4) Hearing sessions x \$750.00	= \$ 3,000.00
Hearing Dates: July 11, 2006	2 sessions
July 12, 2006	2 sessions
Total Forum Fees	= \$ 3,750.00

The Arbitration Panel has assessed \$3,750.00 of the forum fees jointly and severally to Merrill Lynch Pierce Fenner & Smith, Inc. and Iain A. Sharpe.

Fee Summary

Claimant, Khen Yu Ly, is liable for:

Initial Filing Fee	= \$ 225.00
Adjournment Fee	= \$ 750.00
Total Fees	= \$ 975.00
Less payments	= \$ 975.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondent, Merrill Lynch Pierce Fenner & Smith, Inc., is liable for:

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

Respondents, Merrill Lynch Pierce Fenner & Smith, Inc. and Iain A. Sharpe, are jointly and severally liable for:

Forum Fees	= \$ 3,750.00
Total Fees	= \$ 3,750.00
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 3,750.00

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

ARBITRATION PANEL

Jeff Kilgore, Esq. - Public Arbitrator, Presiding Chair
Jack Chapline Vaughan, Esq. - Public Arbitrator
Larry J. Sklar - Non-Public Arbitrator

Concurring Arbitrators:

/s/ Jeff Kilgore, Esq.
Jeff Kilgore, Esq.
Public Arbitrator, Presiding Chair

July 14, 2006
Signature Date

/s/ Jack Chapline Vaughan, Esq.
Jack Chapline Vaughan, Esq.
Public Arbitrator

July 19, 2006
Signature Date

/s/ Larry J. Sklar
Larry J. Sklar
Non-Public Arbitrator

July 16, 2006
Signature Date

July 16, 2006
Date of Service (For NASD office use only)

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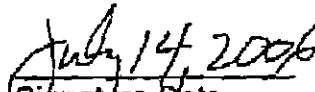
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Jack Chapline Vaughan

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July 19, 2006

Signature Date

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Non-Public Arbitrator

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Signature Date

Jack Chapline Vaughan, Esq.
Public Arbitrator

Signature Date



Larry J. Sklar
Non-Public Arbitrator

7/16/06

Signature Date

Date of Service (For NASD office use only)