

**Stipulated Award
NASD Dispute Resolution**

In the Matter of the Arbitration Between:

Robert H. Stackpole, MD (Claimant) vs. Merrill Lynch, Pierce, Fenner, & Smith, Inc.,
Marshall A. Leber, and Joseph Berkery (Respondents)

Case Number: 05-03207

Hearing Site: Newark, New Jersey

Nature of the Dispute: Customer vs. Member and Associated Persons

REPRESENTATION OF PARTIES

Claimant Robert H. Stackpole, MD hereinafter referred to as "Claimant": Brian Guillorn, Esq., Brian Guillorn Attorney At Law, New York, NY and Steven Krentsel, Esq., Napoli & Bern LLP, New York, NY.

Respondents Merrill Lynch, Pierce, Fenner, & Smith, Inc. ("Merrill Lynch"), Marshall A. Leber ("Leber"), and Joseph Berkery ("Berkery") hereinafter collectively referred to as "Respondents": William J. Manning, Jr., Esq., Loeb & Loeb LLP, New York, NY.

CASE INFORMATION

Statement of Claim filed on or about: June 20, 2005.

Claimant signed the Uniform Submission Agreement: July 5, 2005.

Statement of Answer and Motion to Dismiss filed by Respondents on or about:
September 7, 2005.

Merrill Lynch signed the Uniform Submission Agreement: July 28, 2005.

Berkery signed the Uniform Submission Agreement: August 16, 2005.

Leber did not submit a Uniform Submission Agreement.

CASE SUMMARY

Claimant asserted the following causes of action: breach of fiduciary duty, suitability, unauthorized trading, and fraudulent misrepresentations. The causes of action relate to high risk and speculative investments.

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

RELIEF REQUESTED

Claimant requested compensatory damages in an amount in excess of \$1,000,000.00,

punitive damages in the amount of \$2,000,000.00, costs, disbursements, and attorneys' fees.

Respondents requested dismissal of the Statement of Claim in its entirety with prejudice, expungement of this matter from Respondent Berkery's CRD record, attorneys' fees, costs, and other further relief as the Panel deems just and proper.

OTHER ISSUES CONSIDERED AND DECIDED

Respondent Leber was deceased at the time of filing of the Statement of Claim. Respondent Leber's estate was not served with the Statement of Claim. On or about January 10, 2006 the Panel notified NASD Dispute Resolution that during the January 6, 2006 pre-hearing conference, Claimant agreed to withdraw his claims against Respondent Leber.

By letter dated May 4, 2006 Claimant informed NASD Dispute Resolution that the parties settled this matter.

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

The parties entered into an agreement to present to the Panel a Stipulated Award. Now, in lieu of a hearing and upon motion of both parties for an entry of an award, the written stipulation thereto, the Panel grants the motion and enters this award granting the following relief:

1. Claimant voluntarily dismisses all claims against Respondent Merrill Lynch and Respondent Berkery.
2. Claimant and Respondents Merrill Lynch and Berkery have entered into a confidential settlement agreement.
3. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Berkery's registration records maintained by the Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notices to Members 04-16, Respondent Berkery 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 of the NASD Code of Arbitration Procedure, the arbitration

panel has made the following affirmative findings of fact:

The claim, allegation, or information is false.

4. Each party shall bear their own costs and attorneys' fees.
5. Any and all relief not specifically addressed herein, including punitive damages, 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	= \$ 500.00
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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, Merrill Lynch, Pierce, Fenner, & Smith, Inc. is a party.

Member surcharge	= \$ 2,800.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$ 5,000.00

Forum Fees and Assessments

The Panel has assessed forum fees for each session conducted. 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:

Three (3) Pre-hearing sessions with Panel @ \$1,200.00	= \$ 3,600.00
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Pre-hearing conferences:	December 2, 2005	1 session
	January 6, 2006	1 session
	March 31, 2006	1 session

Two (2) Hearing sessions with Panel @ \$1,200.00	= \$ 2,400.00
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Hearing date:	July 10, 2006	2 sessions
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Total Forum Fees	= \$ 6,000.00
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1. The Panel has assessed \$6,000.00 of the forum fees to Claimant.

Fee Summary

1. Claimant is solely liable for:

Initial Filing Fee	= \$ 500.00
Forum Fees	= \$ 6,000.00
Total Fees	= \$ 6,500.00
Less payments	= \$ 1,700.00
Balance Due NASD Dispute Resolution	= \$ 4,800.00

2. Respondent Merrill Lynch is solely liable for:


Member Fees	= \$ 8,550.00
Total Fees	= \$ 8,550.00
Less Payments	= \$ 9,300.00
Refund Due Respondent Merrill Lynch	= \$ 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

Renee S. Rothschild, Esq.	-	Public Arbitrator, Presiding Chairperson
Norman Kaas	-	Public Arbitrator
Scott K. Shaw	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

 8/11/6

Renee S. Rothschild, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

Norman Kaas
Public Arbitrator

Signature Date

Scott K. Shaw
Non-Public Arbitrator

Signature Date

August 15, 2006
Date of Service (For NASD Dispute Resolution use only)

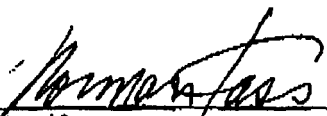
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Renee S. Rothschild, Esq.	-	Public Arbitrator, Presiding Chairperson
Norman Kaas	-	Public Arbitrator
Scott K. Shaw	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

Renee S. Rothschild, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date



Norman Kaas
Public Arbitrator

07/28/07

Signature Date

Scott K. Shaw
Non-Public Arbitrator

Signature Date

August 15, 2006
Date of Service (For NASD Dispute Resolution use only)