

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Michele Pearson and Jerald Pearson, Claimants v. Merrill Lynch, Pierce, Fenner & Smith Incorporated and Ronald Craig Mulberg, Respondents

Case Number: 05-03681

Hearing Site: Seattle, Washington

Nature of the Dispute: Customers v. Member and Associated Person

REPRESENTATION OF PARTIES

For Claimants:

J. Dino Vasquez, Esq.
Bullivant Houser Bailey PC
Seattle, Washington

For Respondents:

Curt Roy Hineline, Esq.
Dorsey & Whitney, LLP
Seattle, Washington

CASE INFORMATION

Statement of Claim filed: July 11, 2005

Claimants' Joint Uniform Submission Agreement signed: June 30, 2005

Joint Statement of Answer filed by Respondents: October 24, 2005

Respondent Merrill Lynch, Pierce, Fenner & Smith Incorporated's Uniform Submission Agreement signed: August 10, 2005

Respondent Ronald Craig Mulberg's Uniform Submission Agreement signed:
September 20, 2005

CASE SUMMARY

Claimants alleged breach of contract, breach of fiduciary duty, unsuitability, intentional and negligent and/or fraudulent misrepresentation and nondisclosure/concealment, churning, unauthorized trading, violation of federal and state securities laws, and failure

to supervise. Claimants' allegations involved transactions in their margin account and in unspecified securities.

Respondents denied the allegations of wrongdoing set forth in the Claimants' Statement of Claim.

RELIEF REQUESTED

Claimants requested unspecified compensatory damages, punitive damages, pre-award interest, and costs, including attorney's fees.

Respondents requested dismissal of Claimants' Statement of Claim in its entirety and requested expungement of all reference to the above captioned arbitration from Respondent Ronald Craig Mulberg's registration records maintained by the Central Registration Depository ("CRD").

OTHER ISSUES CONSIDERED AND DECIDED

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) Claimants' claims are denied in their entirety.
- 2) The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Ronald Craig Mulberg's registration records maintained by the CRD, with the understanding that pursuant to NASD Notices to Members 04-16, Respondent Ronald Craig Mulberg 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 clearly erroneous.

- 3) The parties shall bear their respective costs, including attorney's fees.
- 4) 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	= \$ 250.00
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Member Fees

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	= \$ 1,500.00
Pre-Hearing Process Fee	= \$ 750.00
Hearing Process Fee	= \$ 2,200.00
Total Member Fees	= \$ 4,450.00

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

One (1) Decision on discovery-related motions on the papers with a single arbitrator @ \$200.00/decision	= \$ 200.00
Respondent submitted one (1) discovery-related motion	

One (1) Pre-hearing conference session with the Panel @ \$1,000.00/session	= \$ 1,000.00
Pre-hearing conference: November 22, 2005 1 session	

Sixteen (16) Hearing sessions @ \$1,000.00/session = \$16,000.00

Hearings:

September 11, 2006	2 sessions
September 12, 2006	2 sessions
September 13, 2006	2 sessions
September 14, 2006	2 sessions
September 15, 2006	2 sessions
November 20, 2006	2 sessions
November 21, 2006	2 sessions
November 22, 2006	2 sessions

Total Forum Fees = \$17,200.00

1. The Panel assessed \$8,600.00 of the forum fees jointly and severally to Claimants Michele and Jerald Pearson.
2. The Panel assessed \$8,600.00 of the forum fees to Respondent Merrill Lynch, Pierce, Fenner & Smith Incorporated.

Fee Summary

1. Claimants Michele and Jerald Pearson are charged jointly and severally with the following fees and costs:

Initial Filing Fee	= \$ 250.00
Forum Fees	= \$ 8,600.00
<hr/> Total Fees	<hr/> = \$ 8,850.00
Less payments	= \$(1,800.00)
Balance Due NASD Dispute Resolution	= \$ 7,050.00

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

Member Fees	= \$ 4,450.00
Forum Fees	= \$ 8,600.00
<hr/> Total Fees	<hr/> = \$13,050.00
Less payments	= \$ (4,450.00)
Balance Due NASD Dispute Resolution	= \$ 8,600.00

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.

Sixteen (6) Hearing sessions @ \$1,000.00/session = \$16,000.00

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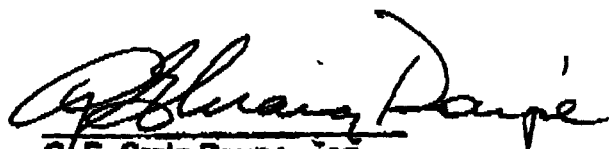
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ARBITRATION PANEL

G. E. Craig Doupe, Esq.	-	Public Arbitrator, Presiding Chair
Imants J. Leskinovitch	-	Public Arbitrator
Ronald E. Lorentser	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures



G. E. Craig Doupe, Esq.
Chair, Public Arbitrator

Nov. 29, 2006

Signature Date

Imants J. Leskinovitch
Public Arbitrator

Signature Date

Ronald E. Lorentser
Non-Public Arbitrator

Signature Date

11/30/06
Date of Service

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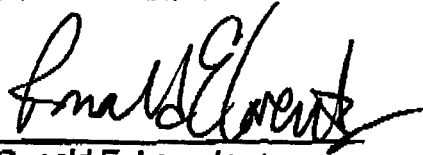
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Imants J. Leskinovitch
Public Arbitrator

Signature Date



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11/29/06
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