

**STIPULATED AWARD
NASD Dispute Resolution**

In the Matter of the Arbitration Between:

Names of Claimants

Garvin C. Pearce and Linda B. Pearce

vs.

Case Number: 05-03963
Hearing Site: Dallas, Texas

Names of Respondents

Merrill Lynch, Pierce, Fenner & Smith Inc.,
Joseph A. Girgenti, and
Suzanne Cline Boyd-Chapman

NATURE OF THE DISPUTE

Customers vs. Member and Associated Persons

REPRESENTATION OF PARTIES

Garvin C. Pearce and Linda B. Pearce ("Claimants") were represented by Tricia Leggitino, Esq., SimmonsCooper LLP, East Alton, Illinois.

Merrill Lynch, Pierce, Fenner & Smith Inc. ("MLFPS"), Joseph A. Girgenti ("Girgenti"), and Suzanne Cline Boyd-Chapman ("Boyd-Chapman"), hereinafter collectively referred to as "Respondents" were represented by Bruce W. Day, Esq. and Bill P. Guest, Esq., Day Edwards Propester & Christensen, P. C., Oklahoma City, Oklahoma.

CASE INFORMATION

The Statement of Claim was filed on or about August 1, 2005. The Submission Agreement of Claimants was signed on or about July 22, 2005.

The Statement of Answer and Motion to Strike was filed by Respondents on or about November 17, 2005. The Submission Agreement of Respondent MLPFS was signed on or about August 18, 2005. The Submission Agreement of Respondent Girgenti was signed on or about September 20, 2006. The Submission Agreement of Respondent Boyd-Chapman was signed on or about December 5, 2005.

CASE SUMMARY

Claimants asserted the following causes of action: unsuitability; failure to supervise;

breach of fiduciary duty; breach of contract; violation of the Securities Exchange Act, including Rule 10b-5; violation of the Texas Securities Laws; violation of the Texas Consumer Protection Act; and negligence. These causes of action related to Claimants' allegations that Respondents sold all their income producing investments, replacing them with variable annuities invested in high risk equities.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted affirmative defenses including the following: Claimants' alleged damages, if any, were proximately caused by their own conduct; Claimants' claims are barred by the applicable statute of limitations; Claimants' claims are barred by the doctrines of waiver, estoppel, ratification, and laches; Claimants' claims are barred because the risks inherent in the investments at issue were fully disclosed or known to them and they assumed those risks; Claimants' claims are barred because they failed to mitigate their damages, and Claimants' claims are barred because they suffered no damages by reason of the acts complained of in the Statement of Claim.

RELIEF REQUESTED

Claimants requested an award in the amount of:

Actual/Compensatory Damages	\$244,902.39
Exemplary/Punitive Damages	\$734,706.00
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. In addition, Respondents, Girgenti and Boyd-Chapman, requested expungement of the claim and all reference to these proceedings from their CRD registration records.

OTHER ISSUES CONSIDERED & DECIDED

On September 26, 2006, the Panel heard argument from the parties in support of the Request to Expunge filed by Respondent Girgenti. The Panel determined that the request would be granted.

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

- 1.) Claimants, Garvin C. Pearce and Linda B. Pearce, have dismissed all claims with prejudice against Respondents, Merrill Lynch, Pierce, Fenner and Smith, Inc., Joseph A. Girgenti and Suzanne Cline Boyd-Chapman. Accordingly, Claimants' claims, each and all, are hereby denied and dismissed with prejudice;
- 2.) Other than Forum Fees which are specified below, the parties shall each bear their own costs and expenses incurred in this matter;
- 3.) The Panel recommends the expungement of all references to the above captioned arbitration from Respondent, Joseph A. Girgenti's, registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 04-16, Respondent, Joseph A. Girgenti, 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 Panel has made the following affirmative findings of fact:

The registered person was not involved in the alleged investment-related sales practice violation, forgery, theft, misappropriation, or conversion of funds; and

- 4.) 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 = \$ 375.00

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 persons at the time of the events giving rise to the dispute. In this matter, the member firm is Merrill Lynch, Pierce, Fenner and Smith, Inc.

Member surcharge = \$ 2,250.00
Pre-hearing process fee = \$ 750.00
Hearing process fee = \$ 4,000.00

Forum Fees and Assessments

The Panel has assessed forum fees for each hearing 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:

One (1) Pre-hearing session with Panel x \$1,200.00 = \$ 1,200.00
Pre-hearing conference: February 1, 2006 1 session

One (1) Hearing session x \$1,200.00 = \$ 1,200.00
Hearing Date: September 26, 2006 1 session

Total Forum Fees = \$ 2,400.00

Pursuant to the parties' agreement, the Panel has assessed \$1,200.00 of the forum fees to the Merrill Lynch, Pierce, Fenner and Smith, Inc. and \$1,200.00 to the Claimants, Garvin C. Pearce and Linda B. Pearce.

FEE SUMMARY

Claimants, Garvin C. Pearce and Linda B. Pearce, are jointly and severally liable for:

Initial Filing Fee	= \$ 375.00
Forum Fees	= \$ 1,200.00
Total Fees	= \$ 1,575.00
Less payments	= \$ 1,575.00
Balance Due NASD Dispute Resolution	= \$ 0.00

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

Member Fees	= \$ 7,000.00
Forum Fees	= \$ 1,200.00
Total Fees	= \$ 8,200.00
Less payments	= \$ 7,000.00
Balance Due NASD Dispute Resolution	= \$ 1,200.00

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

ARBITRATION PANEL

Ted Martin Akin, JD - Public Arbitrator, Presiding Chair
Stephen L. Avarad - Public Arbitrator
John M. Wilkinson - Non-Public Arbitrator

Concurring Arbitrators' Signatures:

Ted Martin Akin, JD
Public Arbitrator, Presiding Chair

Signature Date

Stephen L. Avarad
Public Arbitrator

Signature Date

John M. Wilkinson
Non-Public Arbitrator

Signature Date

Date of Service (For NASD office use only)

NASD Dispute Resolution
Arbitration No. 05-00000
Statement Award Page 5 of 5

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


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John M. Wilkinson - Non-Public Arbitrator

Concurring Arbitrators' Signatures


Ted Martin Akin, JD
Public Arbitrator, Presiding Chair

10-26-06
Signature Date

Stephen L. Averd
Public Arbitrator

Signature Date

John M. Wilkinson
Non-Public Arbitrator

Signature Date

11/6/06 Hw
Date of Service (For NASD office use only)

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

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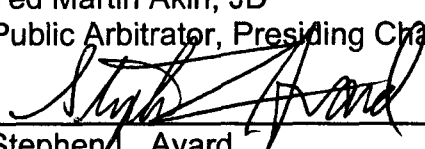
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Concurring Arbitrators' Signatures:

Ted Martin Akin, JD
Public Arbitrator, Presiding Chair


Stephen L. Avarð
Public Arbitrator

Signature Date

11/16/06
Signature Date

John M. Wilkinson
Non-Public Arbitrator

Signature Date

11/06/06
Date of Service (For NASD office use only)

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

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Forum Fees	= \$ 1,200.00
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Balance Due NASD Dispute Resolution	= \$ 1,200.00

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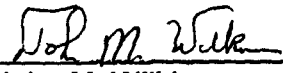
Concurring Arbitrators' Signatures:

Ted Martin Akin, JD
Public Arbitrator, Presiding Chair

Signature Date

Stephen L. Avarad
Public Arbitrator

Signature Date



John M. Wilkinson
Non-Public Arbitrator

10-25-06

Signature Date

11/6/06 mm

Date of Service (For NASD office use only)