

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Patrick J. Schachle, Claimant v. Merrill Lynch, Pierce, Fenner & Smith Incorporated and
Michael M. Miremadi, Respondents

Case Number: 05-04420

Hearing Site: Los Angeles, California

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

REPRESENTATION OF PARTIES

For Claimant:

Douglas A. Ames, Esq.
Law Offices of Douglas A.
Ames
Huntington Beach,
California

For Respondents:

W. Allan Edmiston, Esq.
Loeb & Loeb, LLP
Los Angeles, California

CASE INFORMATION

Statement of Claim filed: August 22, 2005

Claimant Patrick J. Schachle's Uniform Submission Agreement signed: August 16, 2005

Joint Statement of Answer filed by Respondents Merrill Lynch, Pierce, Fenner & Smith Incorporated and Michael M. Miremadi: October 7, 2005

Respondent Merrill Lynch, Pierce, Fenner & Smith Incorporated's Uniform Submission Agreement signed: September 18, 2005

Respondent Michael M. Miremadi's Uniform Submission Agreement signed: October 10, 2005

CASE SUMMARY

Claimant asserted the following causes of action: unauthorized trading, failure to follow instructions, unsuitability, misrepresentations and omissions, failure to supervise, negligence, and breach of fiduciary duty. Claimant's allegations involved the purchase of unspecified securities for his accounts and Respondents' alleged failure to liquidate his accounts as per his instructions.

Unless specifically admitted in their Answer, Respondents denied the allegations of wrongdoing set forth in Claimant's Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

Claimant requested unspecified compensatory damages, unspecified punitive damages, interest, and costs, including attorney's fees.

At the evidentiary hearing, the Panel approved Claimant's request to amend his requested relief as follows: \$427,289.00 in compensatory damages, pre-judgment interest in the amount of \$102,480.00, and expert witness costs in the amount of \$8,000.00. Claimant's request for punitive damages remained unspecified.

Respondents requested dismissal of Claimant's Statement of Claim in its entirety.

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) Claimant's claims are denied in their entirety.
- 2) Respondent Michael M. Miremadi's request for expungement is denied.
- 3) The parties shall bear their respective costs, including attorney's fees.
- 4) 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 received or will collect the non-refundable filing fees for each claim as follows:

Initial claim filing fee = \$ 300.00

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	= \$1,700.00
Pre-Hearing Process Fee	= \$ 750.00
Hearing Process Fee	= \$2,750.00
Total Member Fees	= \$5,200.00

Adjournment Fees

The following adjournment fees are assessed:

May 2 – 6, 2005, adjournment requested by Claimant = \$1,000.00

The Panel assessed the adjournment fee to Claimant.

Forum Fees and Assessments

The Panel has assessed forum fees for each session conducted. A session is any meeting between the parties and the arbitrator(s), including a pre-hearing conference with the arbitrator(s), which lasts four (4) hours or less. The following forum fees are assessed:

One (1) pre-hearing conference session with a single arbitrator
@ \$450.00/session = \$ 450.00
Pre-hearing conference: June 6, 2006 1 session

Two (2) pre-hearing conference session with the Panel
@ \$1,125.00/session = \$2,250.00
Pre-hearing conference: December 13, 2005 1 session
August 1, 2006 1 session

Twelve (12) hearing sessions @ \$1,125.00/session = \$13,500.00
Hearings: July 18, 2006 2 sessions
July 19, 2006 2 sessions
August 7, 2006 2 sessions
August 8, 2006 3 sessions
August 10, 2006 2 sessions
August 14, 2006 1 session

Total Forum Fees = \$16,200.00

1. The Panel assessed \$8,100.00 of the forum fees to Claimant.
2. The Panel assessed \$8,100.00 of the forum fees jointly and severally to Respondents.

Administrative Costs

Administrative costs are expenses incurred because a party requested additional services beyond the normal administrative services. These additional services include, but are not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, security, and sundry other requests.

Claimant requested 39 photocopies @ \$0.50 each = \$19.50

Fee Summary

1. Claimant Patrick J. Schachle is charged with the following fees and costs:

Initial Filing Fee	= \$ 300.00
Adjournment Fee	= \$ 1,000.00
Forum Fees	= \$ 8,100.00
Administrative Costs	= \$ 19.50
Total Fees	= \$ 9,419.50
Less payments	= \$(2,250.00)
Balance Due NASD Dispute Resolution	= \$ 7,169.50
2. Respondent Merrill Lynch, Pierce, Fenner & Smith Incorporated is charged with the following fees and costs:

Member Fees	= \$ 5,200.00
Less payments	= \$(5,200.00)
Balance Due NASD Dispute Resolution	= \$ 0.00
3. Respondents Merrill Lynch, Pierce, Fenner & Smith Incorporated and Michael M. Miremadi are charged jointly and severally with the following fees and costs:


Forum Fees	= \$ 8,100.00
Balance Due NASD Dispute Resolution	= \$ 8,100.00

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.

ARBITRATION PANEL

Erik R. Siering	-	Public Arbitrator, Presiding Chair
John L. Dampman	-	Public Arbitrator
Ronald L. Gershon	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures


Erik R. Siering
Chair, Public Arbitrator

8-15-2006
Signature Date

Ronald L. Gershon
Non-Public Arbitrator

Signature Date

Dissenting Arbitrator's Signature

John L. Dampman
Public Arbitrator

Signature Date

8/15/06
Date of Service

ARBITRATION PANEL

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John L. Dampman	-	Public Arbitrator
Ronald L. Gershon	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

Erik R. Sierling
Chair, Public Arbitrator

Signature Date



Ronald L. Gershon
Non-Public Arbitrator

8-15-06

Signature Date

Dissenting Arbitrator's Signature

John L. Dampman
Public Arbitrator

Signature Date

8/18/06

Date of Service

ARBITRATION PANEL

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Chair John L. Dampman	-	Public Arbitrator
Ronald L. Gershon	-	Non-Public Arbitrator

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Chair, Public Arbitrator

Signature Date

Ronald L. Gershon
Non-Public Arbitrator

Signature Date

Dissenting Arbitrator's Signature



John L. Dampman
Public Arbitrator

8-15-06

Signature Date