

AWARD
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of Claimant

Robert Thomas Farrow

vs.

Case Number: 05-04677
Hearing Site: Houston, Texas

Names of Respondents

Merrill Lynch Pierce Fenner & Smith, Inc. and
David George Pollock

NATURE OF THE DISPUTE

Customer vs. Member and Associated Person

REPRESENTATION OF PARTIES

Robert Thomas Farrow ("Claimant") was represented by Frank V. Ghiselli, Esq., Houston, Texas. On or about April 28, 2006, Winston E. Cochran, Jr., Esq., Houston, Texas, filed a notice of appearance on behalf of Claimant as co-counsel.

Merrill Lynch Pierce Fenner & Smith, Inc. ("Merrill Lynch") and David George Pollock ("Pollock"), hereinafter collectively referred to as "Respondents," were represented by Linda Brooks, Esq. and Eric Cassidy, Esq., Ogden, Brooks & Longoria, LLP, Houston, Texas.

CASE INFORMATION

The Statement of Claim was filed on or about September 7, 2005. The Submission Agreement of Claimant, Robert Thomas Farrow, was signed on or about August 31, 2005.

The Statement of Answer was filed jointly by Respondents, Merrill Lynch Pierce Fenner & Smith, Inc. and David George Pollock, on or about November 7, 2005. The Submission Agreement of Respondent, Merrill Lynch Pierce Fenner & Smith, Inc., was signed on or about December 15, 2005. The Submission Agreement of Respondent, David George Pollock, was signed on or about December 14, 2005.

CASE SUMMARY

Claimant asserted the following causes of action: breach of fiduciary duty; violations of Section 33 of the Texas Securities Act; violations of the Texas Deceptive Trade Practices

Act; statutory fraud; misrepresentation; and breach of contract. The causes of action related to the recommendation and purchase of various unspecified securities. In the Fall of 1998, Claimant inherited 6,000 shares of Exxon Corp. from his father, which were received in two increments and had a combined value of approximately \$452,063, based upon market value of the shares on the respective dates they were received by Merrill Lynch. Claimant alleged that Respondents embarked on an aggressive strategy of trading high-risk technology and telecommunication stocks and options, combined with the use of margin and the Exxon shares as collateral. Claimant alleged that Pollock's aggressive and speculative trading strategy resulted in an extremely high turn-over rate and cost/equity factor, which were not suitable for Claimant based on the facts that he disclosed about his lack of other security holdings and as to his conservative investment objective. Claimant asserted that as a result, all but three (3) of the 6,000 shares of Exxon that Claimant inherited were lost.

Unless specifically admitted in their Answer, Respondents, Merrill Lynch and Pollock, denied the allegations made in the Statement of Claim and asserted affirmative defenses including the following: Claimant failed to state a claim for which relief can be granted; Claimant's claims are barred by the applicable statutes of limitations; Claimant's claims are barred by the doctrines of ratification, estoppel, waiver and laches; Claimant controlled his own account, and exercised independent decision-making authority over the account and each and every trade or investment decision that was executed therein; Claimant is barred from recovering any damages in this case because his negligence contributed to the losses in an amount that would relieve Merrill Lynch and Pollock of any liability; Claimant assumed the risks of the investments held in his accounts with Respondents; Claimant failed to mitigate his damages; and damages allegedly suffered by Claimant were caused, if at all, by unforeseen market forces and conditions that adversely affected the value of the securities in Claimant's accounts, for which Respondents are neither liable nor responsible.

RELIEF REQUESTED

Claimant requested an award in the amount of:

Actual/Compensatory Damages	\$ 559,797.00
Exemplary/Punitive Damages	\$ 400,000.00
Interest	Unspecified
Attorneys' Fees	Unspecified
Other Costs	Unspecified
Other Monetary	Unspecified

Respondents requested that the claims asserted against them be denied in their entirety and that they be awarded their costs and attorneys' fees.

OTHER ISSUES CONSIDERED & DECIDED

On or about August 28, 2006, Respondents filed a Motion for Leave to File an Amended Answer. Respondents' counsel presented the Panel this Motion at the start of the final hearing. Claimant did not oppose this Motion. The Panel granted Respondents' Motion for Leave to Amend their Answer and accepted the Amended Answer as part of the record.

At the hearing, Respondents' counsel made an oral Motion to Reopen if e-mail records from MSN.com (hotmail.com) were received and needed to be presented to the Panel. Claimant stated he didn't use hotmail. He was not questioned about that account during the hearing. The Panel stated that it would review if the information came in before the Award was presented to the parties.

Also, at the hearing, Respondents' counsel orally requested that the Panel expunge all references to this claim from David George Pollock's CRD record.

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.) Respondents, Merrill Lynch Pierce Fenner & Smith, Inc. and David George Pollock, are jointly and severally liable for and shall pay to Claimant, Robert Thomas Farrow, the sum of \$269,000.00 in compensatory damages;
- 2.) Respondents, Merrill Lynch Pierce Fenner & Smith, Inc. and David George Pollock, are jointly and severally liable for and shall pay to Claimant, Robert Thomas Farrow, interest on the above-stated sum at the rate of 8.25% per annum from and including September 11, 2003 through and including the date the Award is paid in full;
- 3.) Respondents, Merrill Lynch Pierce Fenner & Smith, Inc. and David George Pollock, are jointly and severally liable for and shall pay to Claimant, Robert Thomas Farrow, the sum of \$116,977.00 in attorneys' fees pursuant to breach of contract due to unsuitability and failure to supervise the financial advisor in this account. Texas Civil Practices and Remedies Code § 38.01 allows for this even if the contract is silent on the issue;

- 4.) Respondents, Merrill Lynch Pierce Fenner & Smith, Inc. and David George Pollock, are jointly and severally liable for and shall pay to Claimant, Robert Thomas Farrow, the sum of \$20,000.00 in costs to Claimant's attorney;
- 5.) Respondents, Merrill Lynch Pierce Fenner & Smith, Inc. and David George Pollock, are jointly and severally liable for and shall pay to Claimant, Robert Thomas Farrow, the sum of \$375.00 for reimbursement of the filing fee; and
- 6) Any relief not specifically enumerated, including punitive damages and expungement, 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
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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. In this matter, the member firm is Merrill Lynch Pierce Fenner & Smith, Inc.

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

Adjournment Fees

Adjournments granted during these proceedings:

June 27-30, 2006, adjournment requested by Claimant (fee waived by the Panel)	= \$ 1,200.00
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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:

Three (3) Pre-hearing sessions with a single arbitrator x \$450.00	= \$ 1,350.00
Pre-hearing conferences: February 23, 2006	1 session
May 23, 2006	1 session
May 31, 2006	1 session
One (1) Pre-hearing session with Panel x \$1,200.00	= \$ 1,200.00
Pre-hearing conference: January 20, 2006	1 session
Eleven (11) Hearing sessions x \$1,200.00	= \$ 13,200.00
Hearing Dates: August 29, 2006	2 sessions
August 30, 2006	2 sessions
August 31, 2006	2 sessions
September 1, 2006	1 session
September 11, 2006	4 sessions
Total Forum Fees	= \$ 15,750.00

The Panel has assessed \$15,750.00 of the forum fees jointly and severally to Merrill Lynch Pierce Fenner & Smith, Inc. and David George Pollock.

FEE SUMMARY

Claimant, Robert Thomas Farrow, is liable for:

Initial Filing Fee	= \$ 375.00
Total Fees	= \$ 375.00
Less payments	= \$ 1,700.00
Refund Due Claimant	= \$ 1,325.00

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

Member Fees	= \$ 7,000.00
Total Fees	= \$ 7,000.00
Less payments	= \$ 7,000.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondents, Merrill Lynch Pierce Fenner & Smith, Inc. and David George Pollock, are jointly and severally liable for:

Forum Fees	= \$ 15,750.00
Total Fees	= \$ 15,750.00
Less payments	= \$ 0.00

Balance Due NASD Dispute Resolution

= \$ 15,750.00

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
Robert Alan Meyer - Public Arbitrator
Byron G. Hannah - Non-Public Arbitrator

Concurring Arbitrators' Signatures:

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

September 20, 2006
Signature Date

/s/ Robert Alan Meyer
Robert Alan Meyer
Public Arbitrator

September 20, 2006
Signature Date

/s/ Byron G. Hannah
Byron G. Hannah
Non-Public Arbitrator

September 19, 2006
Signature Date

September 20, 2006
Date of Service (For NASD office use only)

Balance Due NASD Dispute Resolution

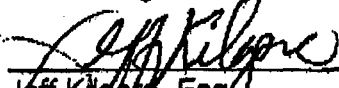
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Jeff Kilgore, Esq.
Public Arbitrator Presiding Chair

September 20 2006

Signature Date

Robert Alan Meyer
Public Arbitrator

Signature Date

Byron G. Hannah
Non-Public Arbitrator

Signature Date

Date of Service (For NASD office use only)

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Public Arbitrator, Presiding Chair

Robert Alan Meyer
Public Arbitrator

Signature Date

09/20/06
Signature Date

Byron G. Hannah
Non-Public Arbitrator

Signature Date

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Public Arbitrator, Presiding Chair

Signature Date

Robert Alan Meyer
Public Arbitrator

Signature Date


Byron G. Hannah
Non-Public Arbitrator

9-19-06
Signature Date

Date of Service (For NASD office use only)