

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Patricia Hokanson, Claimant v. Merrill Lynch, Pierce, Fenner & Smith, Inc., and
Thomas Patterson, Respondents

Case Number: 05-04780

Hearing Site: San Francisco, California

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

REPRESENTATION OF PARTIES

For Claimant:

Richard Sacks
Irwin Stein
Law Offices of Timothy A.
Canning
Novato, California

For Respondents:

Kenneth C. Mennemeier, Esq.
Mennemeier, Glassman & Stroud
LLP
Sacramento, California

CASE INFORMATION

Statement of Claim filed: September 9, 2005

Claimant's Uniform Submission Agreement signed: August 22, 2005

Joint Statement of Answer filed by Respondents: January 24, 2006

Respondent Merrill Lynch, Pierce, Fenner & Smith, Inc.'s Uniform Submission
Agreement signed: October 27, 2005

Respondent Thomas Patterson's Uniform Submission Agreement signed: October 7,
2005

CASE SUMMARY

Claimant alleged fraud, negligence, breach of contract, breach of fiduciary duty, misrepresentation, lack of reasonable basis, and failure to supervise. Claimant's allegations involved stock in JDS Uniphase, Juniper Networks, EMC Corporation, and Sun Microsystems.

Respondents denied the allegations of wrongdoing set forth in Claimant's Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

Claimant requested at least \$170,000.00 in compensatory damages, unspecified punitive damages, interest, and costs.

Respondents requested dismissal of Claimant's Statement of Claim in its entirety, expungement of this matter from Respondent Thomas Patterson's CRD record, and costs.

OTHER ISSUES CONSIDERED AND DECIDED

During the hearing, Claimant withdrew her claims against Respondent Thomas Patterson with prejudice.

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) The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Thomas Patterson's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 04-16, Respondent Thomas Patterson 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 finding of fact:

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

- 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 NASD Code of Arbitration Procedure, 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, Inc. 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

Forum Fees and Assessments

The Panel assessed forum fees for each session conducted or each decision rendered on a discovery-related motion decided on the papers. A session is any meeting between the parties and the arbitrator(s), including a pre-hearing conference with the arbitrator(s), that lasts four (4) hours or less. Fees associated with these proceedings are:

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

(1) Pre-hearing conference session with the Panel @ \$1,125.00/session = \$ 1,125.00
Pre-hearing conference: March 28, 2006 1 session

(5) Hearing sessions @ \$1,125.00/session = \$ 5,625.00
Hearings: October 10, 2006 2 sessions
October 11, 2006 2 sessions
October 12, 2006 1 session

Total Forum Fees = \$ 6,950.00

1. The Panel assessed \$762.50 of the forum fees to Claimant.
2. The Panel assessed \$6,187.50 of the forum fees to Respondent Merrill Lynch, Pierce, Fenner & Smith, Inc.

Fee Summary

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

Initial Filing Fee	= \$ 300.00
Forum Fees	= \$ 762.50
<u>Total Fees</u>	<u>= \$ 1,062.50</u>
<u>Less payments</u>	<u>= \$(1,425.00)</u>
Refund Due	= \$ (362.50)

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

Member Fees	= \$ 5,200.00
Forum Fees	= \$ 6,187.50
<u>Total Fees</u>	<u>= \$11,387.50</u>
<u>Less payments</u>	<u>= \$ (5,200.00)</u>
Balance Due NASD Dispute Resolution	= \$ 6,187.50

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

Nancy Hutt	-	Public Arbitrator, Presiding Chair
Harve E. Citrin	-	Public Arbitrator
Mark R. Palmer	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures


Nancy Hutt
Chair, Public Arbitrator

10/19/06
Signature Date

Harve E. Citrin
Public Arbitrator

Signature Date

Mark R. Palmer
Non-Public Arbitrator

Signature Date

10/23/06
Date of Service

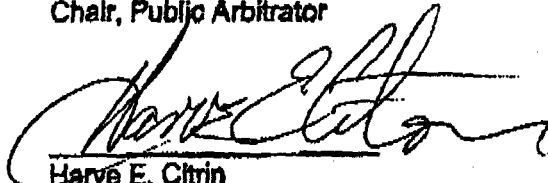
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Mark R. Palmer	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

Nancy Hutt
Chair, Public Arbitrator

Signature Date



Harve E. Citrin
Public Arbitrator

21 Oct 06

Signature Date

Mark R. Palmer
Non-Public Arbitrator

Signature Date

10/23/06

Date of Service

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Mark R. Palmer	-	Non-Public Arbitrator


Concurring Arbitrators' Signatures

Nancy Hutt
Chair, Public Arbitrator

Signature Date

Harve E. Citrin
Public Arbitrator

Signature Date


Mark R. Palmer
Non-Public Arbitrator

10-20-06
Signature Date

10/23/06
Date of Service