

Stipulated Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimant
Nancy Bartley

Case Number: 06-00559

Names of the Respondents
Merrill Lynch, Pierce, Fenner & Smith
William Hamilton

Hearing Site: Nashville, TN

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

REPRESENTATION OF PARTIES

For Nancy Bartley, hereinafter referred to as "Claimant": Lynn Williams, Esq. of Woska & Hayes, LLP, Oklahoma City, Oklahoma.

For Merrill Lynch, Pierce, Fenner & Smith ("Merrill Lynch") and William Hamilton ("Hamilton"), hereinafter collectively referred to as "Respondents": Lauryn J. Hart, Esq., Counsel for Merrill Lynch, Pierce, Fenner & Smith, New York, New York.

CASE INFORMATION

Statement of Claim filed on or about: February 3, 2006.
Claimant signed the Uniform Submission Agreement: November 29, 2005.
Respondent Merrill Lynch signed the Uniform Submission Agreement: June 15, 2006.
Respondent Hamilton signed the Uniform Submission Agreement: June 5, 2006.
Respondents did not file a Statement of Answer.

CASE SUMMARY

Claimant asserted the following causes of action: 1) breach of fiduciary duty; 2) controlling person liability; 3) breach of contract; 4) unsuitability; 5) failure to diversify; 6) failure to supervise; and, 7) violation of the rules of the NASD and NYSE, the Tennessee Securities Act of 1980 and the Tennessee Consumer Protection Act of 1977. The causes of action relate to purchase of unspecified mutual funds and stock.

RELIEF REQUESTED

Claimant requested: 1) compensatory damages in the amount of \$18,000.00; 2) pre-judgment and post-judgment interest at the maximum statutory rate on all losses sustained from the date of the transactions until the date of the award; 3) costs including forum fees; 4) attorneys' fees; 5) unspecified punitive damages; and 6) other and further relief to which Claimant is entitled.

OTHER ISSUES CONSIDERED AND DECIDED

On or about October 16, 2006, Claimant voluntarily dismissed, with prejudice, all claims and with no remuneration whatsoever from Respondents. On or about November 2, 2006, the

parties submitted a joint motion for the appointment of a sole arbitrator and for the entry of a Stipulated Award. On or about January 4, 2007, NASD appointed an arbitrator. On or about January 22, 2007, the Arbitrator held an evidentiary hearing on the entry of a Stipulated Award.

AWARD

After considering the claim, Claimant's the dismissal with prejudice, the evidence and statements of counsel presented at the January 22, 2007 hearing and the proposed Stipulated Award, the Arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

- All of Claimant's claims are denied in their entirety.
- That the claims asserted by Claimant would not have been asserted, nor this proceeding commenced, had Claimant and her counsel been in possession of all facts and circumstances relating to those claims.
- Pursuant to Rule 2130, the Arbitrator affirmatively finds that the claims, allegations and information contained in Claimant's Statement of Claim are factually impossible or clearly erroneous.
- The Arbitrator recommends the expungement of all reference to the above captioned arbitration from Respondent Hamilton's registration records maintained by NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 04-16, Respondent Hamilton 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.
- By agreement of the parties, Respondent Merrill Lynch will pay all forum fees associated with this action.

FEES

Pursuant to the Code of Arbitration Procedures (the "Code"), the following fees are assessed:

Filing Fees

NASD Dispute Resolution will retain or collect the non-refundable filing fees for each claim:

Initial claim filing fee	= \$125.00
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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(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute. Accordingly, Merrill Lynch is a party.

<u>Member surcharge</u>	= \$425.00
<u>Total Member Fees</u>	= \$425.00

Forum Fees and Assessments

The Arbitrator has 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, including a pre-hearing conference with the Arbitrator that lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) Hearing session @ \$450.00	= \$450.00
Hearing Date: January 22, 2007 1 session	

<u>Total Forum Fees</u>	= \$450.00
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The Arbitrator has assessed \$450.00 of the forum fees to Merrill Lynch.

Fee Summary

Claimant is solely liable for:

<u>Initial Filing Fee</u>	= \$125.00
<u>Total Fees</u>	= \$125.00
<u>Less payments</u>	= \$125.00
<u>Balance Due NASD Dispute Resolution</u>	= \$ 0.00

Respondent Merrill Lynch is solely liable for:

Member Fees	= \$425.00
<u>Forum Fees</u>	= \$450.00
<u>Total Fees</u>	= \$875.00
<u>Less payments</u>	= \$425.00
<u>Balance Due NASD Dispute Resolution</u>	= \$450.00

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

ARBITRATION PANEL

Claude O. Ramer, II	-	Public Arbitrator
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/s/
Claude O. Ramer, II
Public Arbitrator

January 25, 2007
Signature Date

January 25, 2007
Date of Service (For NASD Dispute Resolution use only)

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ARBITRATION PANEL

Claude O. Ramer, II



Claude O. Ramer, II
Public Arbitrator

Public Arbitrator

1/25/07

Signature Date

Date of Service (For NASD Dispute Resolution use only)