

**Award
NASD Dispute Resolution**

COPY

In the Matter of the Arbitration Between:

Joy Paul, M.D., individually and as trustee of the South Bay Urology Medical Group Defined Contribution Plan, and Elizabeth Paul, M.D., individually and as trustee of the Elizabeth Paul Money Purchase Pension Plan, Claimants v. Merrill Lynch, Pierce, Fenner & Smith, Incorporated, Respondent

Case Number: 06-00615

Hearing Site: Los Angeles, California

Nature of the Dispute: Customers v. Member

REPRESENTATION OF PARTIES

For Claimants:

William F. Davis, Esq.
Law Offices of William F. Davis
Los Angeles, California

For Respondent:

Eric J. Glassman, Esq.
Mennemeier, Glassman & Stroud
Sacramento, California

CASE INFORMATION

Statement of Claim filed: February 6, 2006

Claimants' Joint Uniform Submission Agreement signed: March 14, 2006

Statement of Answer filed by Respondent: May 17, 2006

Respondent's Uniform Submission Agreement signed: April 5, 2006

CASE SUMMARY

Claimants alleged breach of contract, breach of fiduciary duty, unsuitability, negligence, violation of NASD Rules, and failure to supervise. Claimants' allegations involved the investment of their accounts in unspecified securities and the alleged over-concentration of their accounts in unspecified technology sector securities.

Respondent denied the allegations of wrongdoing set forth in Claimants' Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

Claimants requested compensatory damages according to proof but not less than \$750,000.00, interest, and costs, including attorney's fees.

Respondent requested dismissal of the Claimants' Statement of Claim in its entirety, and costs, including attorney's fees.

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) Claimants' claims are denied in their entirety.
- 2) The parties shall bear their respective costs, including attorney's fees.
- 3) All other relief requested and not expressly granted 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	= \$ 375.00
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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	= \$2,250.00
Pre-Hearing Process Fee	= \$ 750.00
Hearing Process Fee	= \$4,000.00
Total Member Fees	= \$7,000.00

Forum Fees and Assessments

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

One (1) Pre-hearing conference session with the Panel @ \$1,200.00/session			= \$1,200.00
Pre-hearing conference:	July 20, 2006	1 session	
Five (5) Hearing sessions @ \$1,200.00/session			= \$6,000.00
Hearings:	October 17, 2006	2 sessions	
	October 18, 2006	2 sessions	
	October 19, 2006	1 session	
Total Forum Fees			= \$7,200.00

1. The Panel assessed \$3,600.00 of the forum fees jointly and severally to Claimants Joy Paul, M.D., individually and as trustee of the South Bay Urology Medical Group Defined Contribution Plans and Elizabeth Paul, M.D., individually and as trustee of the Elizabeth Paul Money Purchase Pension Plan.
2. The Panel assessed \$3,600.00 of the forum fees to Respondent Merrill Lynch, Pierce, Fenner & Smith, Incorporated.

Fee Summary

1. Claimants Joy Paul, M.D., individually and as trustee of the South Bay Urology Medical Group Defined Contribution Plans and Elizabeth Paul, M.D., individually and as trustee of the Elizabeth Paul Money Purchase Pension Plan are charged jointly and severally with the following fees and costs:

Initial Filing Fee	= \$ 375.00
Forum Fees	= \$ 3,600.00
Total Fees	= \$ 3,975.00
Less payments	= \$ (1,575.00)
Balance Due NASD Dispute Resolution	= \$ 2,400.00

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

Member Fees	= \$ 7,000.00
Forum Fees	= \$ 3,600.00
Total Fees	= \$10,600.00
Less payments	= \$ (7,000.00)
Balance Due NASD Dispute Resolution	= \$ 3,600.00

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

Royal D. Heisser	~	Public Arbitrator, Presiding Chair
Martynne Rinaldi	-	Public Arbitrator
Robert Elman	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

Royal D. Heisser
Royal D. Heisser
Chair, Public Arbitrator

10-19-2006
Signature Date

Martynne Rinaldi
Public Arbitrator

Signature Date

Robert Elman
Non-Public Arbitrator

Signature Date

10/19/06
Date of Service

ARBITRATION PANEL

Royal D. Heisser	-	Public Arbitrator, Presiding Chair
Marilyne Rinaldi	-	Public Arbitrator
Robert Elman	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

Royal D. Heisser
Chair, Public Arbitrator

Signature Date

Marilyne Rinaldi
Marilyne Rinaldi
Public Arbitrator

10/19/06
Signature Date

Robert Elman
Non-Public Arbitrator

Signature Date

10/19/06
Date of Service

ARBITRATION PANEL

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Marlyne Rinaldi	-	Public Arbitrator
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Concurring Arbitrators' Signatures

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Chair, Public Arbitrator

Signature Date

Marlyne Rinaldi
Public Arbitrator

Signature Date



Robert Elman
Non-Public Arbitrator

10/20/06

Signature Date

10/20/06

Date of Service