

NASD REGULATION AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Joseph F. Hunt

96-03053

Name of Respondent

Merrill Lynch Government Securities, Inc

REPRESENTATION

For claimant Joseph Hunt ("claimant") appeared Richard C. Raymond, Esq., of the law offices McMillan, Constable, Maker, Murphy & Raymond, LLP located in Larchmont, New York.

For respondent Merrill Lynch Government Securities, Inc. ("respondent") appeared Kevin B. Walker, Esq., of the law offices Bressler, Amery & Ross located in New York, New York.

CASE INFORMATION

Statement of Claim was filed on: July 15, 1996.

Claimant's Submission Agreement was signed on: July 6, 1996.

Statement of Answer was filed by Respondent on: October 9, 1996.

Respondent's Submission Agreement was signed on: October 9, 1996.

HEARING INFORMATION

Hearing Date/Sessions: February 13, 1997 - 2 sessions

The hearings were conducted at the offices of the NASD Regulation, Inc., located in New York, New York.

CASE SUMMARY

Claimant alleged that, from April, 1988 through February 11, 1994, he was employed by respondent as a government securities salesman. Claimant also alleged that on January 24, 1990, pursuant to an incentive compensation plan, he was awarded an option to purchase 2,000

shares of Merrill Lynch stock. Claimant contended that in November, 1993, Merrill Lynch's stock split two-for-one and he became the owner of options for 4,000 shares which were exercisable at \$11.4375 per share. Claimant maintained that pursuant to the terms of the incentive compensation plan, the options vested 25% per year on each anniversary of the date of grant. In addition, claimant contended that the incentive compensation plan contained a boilerplate provision whereby the options granted to him expired if he terminated his employment prior to having exercised the options. Claimant further maintained that he was never advised of this provision when he was awarded the options or when his supervisor explained the options' features.

Claimant further alleged that, when he resigned on February 11, 1994, no one at Merrill Lynch informed him that he would forfeit his options if he did not exercise them before resigning. Claimant contended that two business days following his resignation he attempted to exercise his options and that, despite repeated requests, respondent refused to permit him to exercise his fully-vested options.

Respondent alleged that, in February, 1990, when claimant was awarded restricted stock and options he received a copy of the Certificate of Grant of Non-qualified Stock Option, the Prospectus and the full Plan Document. Respondent maintained that each of these documents summarized the incentive compensation plan and contained provisions which made clear that, upon termination, for reasons other than death, disability or retirement, all unexercised options would expire. In addition, respondent contended that, in each year following the distribution of the above documents, claimant acknowledged receipt of an Equity Incentive Portfolio booklet which also outlined the incentive compensation plan and the termination provision. Respondent further maintained that, upon claimant's resignation from his position on February 11, 1994, his unexercised stock options expired.

In addition, respondent contended that the statement of claim failed to state a claim upon which relief could be granted, that claimant's claim for equitable restitution held no merit and should be dismissed, and that claimant was well aware of the termination/resignation provisions of the incentive compensation plan and cannot feign ignorance.

RELIEF REQUESTED

Claimant requested the following relief:

1. an order directing respondent to permit claimant to exercise options as to 4,000 shares of Merrill Lynch stock at an exercise price of \$11.4375 per share;
2. in the alternative, damages in an amount to be determined at the hearing but not less than \$209,750.00;
3. attorneys' fees and costs of the arbitration; and
4. such other and further relief as the arbitrators deem just and proper.

Respondent requested that the panel deny claimant's claims in their entirety. Respondent further requested an award of forum fees.

OTHER ISSUES CONSIDERED & DECIDED

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. In either case, the parties have agreed to receive conformed copies of the award while the originals remain on file with the NASD.

AWARD

After considering the pleadings, the testimony and the evidence presented at the hearing, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. All claims against respondent be and hereby are dismissed in their entirety.
2. Each party shall bear its own attorneys fees and costs.
3. All other claims are hereby denied.

FORUM FEES

Pursuant to Rule 10205(c) (formerly Section 44(c)) of the Code of Arbitration Procedure, the arbitrators have determined that NASD Regulation shall retain the \$500.00 non-refundable filing fee previously deposited by claimant and have assessed the following forum fees:

2 hearing sessions x \$750.00 = \$1,500.00

1. Claimant be and hereby is liable for the sum of \$750.00, representing one-half of the total amount of forum fees assessed. Claimant previously deposited \$750.00 with NASD Regulation and, therefore, claimant owes nothing to NASD Regulation.
2. Respondent be and hereby is liable and shall pay to NASD Regulation the sum of \$750.00, representing one-half of the total amount of forum fees assessed.

Fees are payable to the NASD Regulation, Inc.

Arbitrators' Signatures

Vicki Z. Holleman

Vicki Z. Holleman, Esq.
Chairperson--Industry Arbitrator

Judith C. Zerden, Esq.
Industry Arbitrator

Jerome H. Levy
Industry Arbitrator

Date of Decision: March 18, 1997

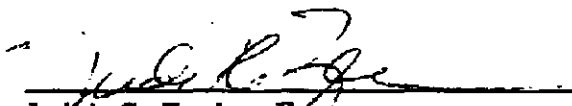
I, Vicki Holleman, Esq., do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein, and who executed this instrument which is my award.

Vicki Z. Holleman

Vicki Holleman, Esq.

Arbitrators' Signatures

Vicki Z. Holleman, Esq.
Chairperson--Industry Arbitrator



Judith C. Zerden, Esq.
Industry Arbitrator

Jerome H. Levy
Industry Arbitrator

Date of Decision: March 18, 1997

I, **Judith C. Zerden, Esq.**, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the person described herein, and who executed this instrument which is my award.

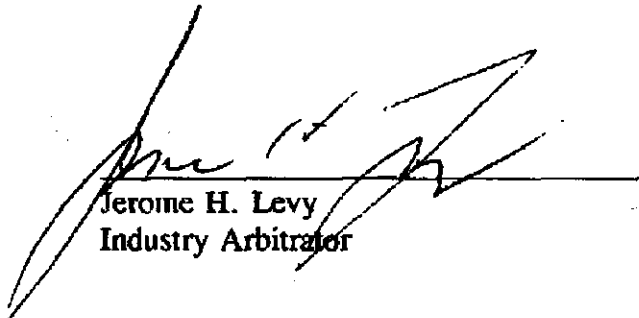


Judith C. Zerden, Esq.

Arbitrators' Signatures

Vicki Z. Holleman, Esq.
Chairperson--Industry Arbitrator

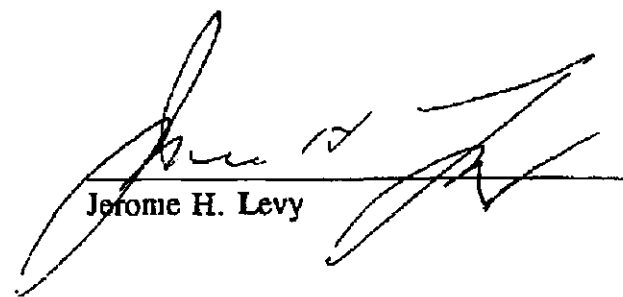
Judith C. Zerden, Esq.
Industry Arbitrator



Jerome H. Levy
Industry Arbitrator

Date of Decision: March 18, 1997

I, Jerome H. Levy, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the person described herein, and who executed this instrument which is my award.



Jerome H. Levy