

Award
NASD Regulation, Inc.

In the Matter of the Arbitration Between

Name of Claimants

The Betty H. Long Living Trust
The Estate of Everett N. Long

vs.

Case No. 99-00063

Name of Respondents

Merrill Lynch Pierce Fenner & Smith Inc.
Robert H. Sullivan

REPRESENTATION OF PARTIES

Claimants The Betty H. Long Living Trust ("Trust") and The Estate of Everett N. Long ("Estate"), hereinafter collectively referred to as "Claimants": John P. Connolly, Esq., Alexandria, Virginia

Respondents Merrill Lynch Pierce Fenner & Smith Inc. ("Merrill") and Robert H. Sullivan ("Sullivan"), hereinafter collectively referred to as "Respondents": Marianne Bretton-Granatoor, Esq., Merrill Lynch Pierce Fenner & Smith Inc., New York, New York

CASE INFORMATION

Statement of Claim filed on or about: January 7, 1999

Response to the Amended Statement of Answer and Counterclaim: July 1, 1999

Claimant Trust signed the Uniform Submission Agreement: January 5, 1999

Claimant Estate signed the Uniform Submission Agreement: January 5, 1999

Claimants' Answer to the Counterclaim and Motion regarding Respondents' Counterclaim:
April 25, 2000

Statement of Answer filed by Respondents on or about: March 29, 1999

Amended Statement of Answer and Counterclaim on or about: June 21, 1999

Respondent Merrill signed the Uniform Submission Agreement: March 26, 1999

Respondent Sullivan signed the Uniform Submission Agreement: April 13, 1999

Respondents' Counterclaim Reasserted Pursuant to March 29, 2000 Order of Arbitrators:
April 12, 2000

CASE SUMMARY

Claimants asserted the following causes of action: Violation of Section 10(b) and Section 20(a) of the Securities Exchange Act of 1934 and Rule 10b-5 thereunder; violation of Section 13.1-502 of the Code of Virginia; constructive fraud; fraud and deceit; unsuitability; excessive trading; and breach of contract. The causes of action relate to the purchase and sale of various securities.

Unless specifically admitted in its Answer, Respondents denied the allegations made in the Statement of Claim and asserted the following defenses: lack of timely objection to any of the transactions a ratification of these transactions and a waiver or estoppel of Claimants' right to any recovery sought in the Statement of Claim; a failure to mitigate damages; transactions were suitable in accordance with stated investment objectives; lack of probable cause; and Claimants' claims are barred by all applicable statutes of limitations.

Respondents asserted a Counterclaim for Indemnification against The Estate of Everett N. Long and the Personal Representative of the Estate and co-Successor Trustee David Long, since Everett Long was the designated Trustee of the Betty H. Long Living Trust. Respondents maintained that as Trustee, Everett Long and the co-Successor Trustee and Executor David Long, owed a fiduciary duty to the Trust. Respondents further alleged that as Everett Long approved and authorized all transactions, any loss should be indemnified by the Estate.

Claimants denied the allegations asserted in the Counterclaim and maintained that Everett Long lacked any degree of sophistication or knowledge as an investor, and was partially incapacitated by illnesses. Claimants contended that Respondent Sullivan induced Everett Long to authorize transactions, resulting in *de facto* control over the accounts by Sullivan, and that the co-Successor Trustee could not be responsible for Everett Long's decisions.

RELIEF REQUESTED

Claimants requested:

Compensatory Damages	\$130,000.00
Punitive Damages	\$250,000.00
Interest	Amount Not Specified
Attorneys' Fees	Amount Not Specified
Other Costs	Amount Not Specified
Other Monetary Relief	\$420,000.00

Respondents denied the claims and sought indemnification by counterclaim for:

Compensatory Damages	\$130,000.00
Punitive Damages	\$250,000.00
Interest	Amount Not Specified
Attorneys' Fees	Amount Not Specified
Other Costs	Amount Not Specified
Other Monetary Relief	\$420,000.00

OTHER ISSUES CONSIDERED AND 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.

The Amended Answer containing counterclaims by Respondents for indemnification was permitted, and the counterclaim then severed by the arbitrators prior to the arbitration hearings. The Respondents were permitted to reallege these counterclaims by Order dated

March 29, 2000, and Claimants filed an answer and a request that the counterclaim be dismissed on April 25, 2000.

AWARD

After considering the pleadings, the testimony and evidence presented at the hearing, and the post-hearing submissions, the Panel decided in full and final resolution of the issues submitted for determination as follows:

1. That Respondents Merrill and Sullivan are jointly and severally liable to and shall pay to Claimant Trust \$225,000.00; and
2. That Respondents Merrill and Sullivan are jointly and severally liable to and shall pay to Claimant Estate \$1,000.00; and
3. That Respondents Merrill and Sullivan are jointly and severally liable to and shall pay to Claimant Trust \$74,000.00 in punitive damages based on evidence showing that Sullivan borrowed money from client Everett Long; failed to record such on the Form U-4; failed to record other liens and facts relevant to his financial condition on his Form U-4; upon complaint by Claimants, Merrill failed to sanction Sullivan other than to have him repay the loan, and failed to update his registration maintained by the NASD Central Registration Depository ("CRD"); and
4. That Respondents' Counterclaims seeking indemnification from Claimant Estate and Executor David Long and Claimant Trust and co-Successor Trustee David Long are denied; there shall be no indemnification of Respondents for the damages awarded herein and zero damages awarded to Respondents; and
5. That each party shall bear their own costs and expenses, including attorneys' fees, with the exception of forum fees as specified below; and
6. That any and all relief not specifically addressed herein, is denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Regulation, Inc. will retain or collect the non-refundable filing fees for each claim:

Initial claim filing fee	= \$250.00
Counter claim filing fee	= \$1,125.00

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 a party.

Member surcharge	= \$2,000.00
Pre-hearing process fee	= \$600.00
Hearing process fee	= \$3,500.00

Forum Fees and Assessments

The Panel assesses forum fees for each hearing session conducted. A hearing 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:

2 Pre-hearing sessions with a single arbitrator x \$300.00			= \$600.00
Pre-hearing conferences:	July 9, 1999	1 session	
	October 15, 1999	1 session	
1 Pre-hearing session with Panel x \$1,000.00			= \$1,000.00
Pre-hearing conference:	July 8, 1999	1 session	
30 Hearing sessions x \$1,000.00			= <u>\$30,000.00</u>
Hearing Dates:	October 25, 1999	2 sessions	
	October 26, 1999	2 sessions	
	October 27, 1999	2 sessions	
	October 29, 1999	2 sessions	
	December 15, 1999	2 sessions	
	December 16, 1999	2 sessions	
	December 17, 1999	2 sessions	
	December 20, 1999	2 sessions	
	December 21, 1999	2 sessions	
	March 6, 2000	2 sessions	
	March 7, 2000	2 sessions	
	March 8, 2000	2 sessions	
	March 20, 2000	2 sessions	
	March 21, 2000	2 sessions	
	March 22, 2000	2 sessions	
Total Forum Fees			= \$31,600.00

The Panel assessed \$11,600.00 of the forum fees to Claimant Trust.

The Panel assessed \$20,000.00 of the forum fees jointly and severally to Respondents Merrill and Sullivan.

Administrative Costs

Administrative costs are expenses incurred due to a request by a party for special services including, but not limited to, additional copies of arbitrator awards beyond those provided without charge, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

Respondent requested copies, an easel and audio tapes =	\$577.70
Claimants requested copies and audio tapes =	\$197.60

Fee Summary

Claimants Trust and Estate, be and hereby are jointly and severally liable for:

Initial Filing Fee	= \$250.00
Administrative Costs	= <u>\$197.60</u>
Total Fees	= \$447.60
Less payments	= \$447.60
Balance Due NASD Regulation, Inc.	= --0--

Claimant Trust be and hereby is solely liable for:

Forum Fees	= \$11,600.00
Less payments	= <u>\$4,000.00</u>
Balance Due NASD Regulation, Inc.	= \$7,600.00

Respondent Merrill be and hereby is solely liable for:


Member Fees	= \$6,100.00
Administrative Costs	= <u>\$577.70</u>
Total Fees	= \$6,677.70
Less payments	= \$6,677.70
Balance Due NASD Regulation, Inc.	= --0--

Respondents Merrill and Sullivan be and hereby are jointly and severally liable for:

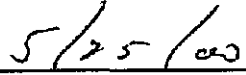
Forum Fees	= <u>\$20,000.00</u>
Total Fees	= \$20,000.00
Less Payments	= <u>\$6,750.00</u>
Balance Due NASD Regulation, Inc.	= \$13,250.00

All balances are due and payable to NASD Regulation, Inc.

CONCURRING ARBITRATORS' SIGNATURES



Carroll E. Dubuc, Esq.
Public Arbitrator, Presiding Chairman



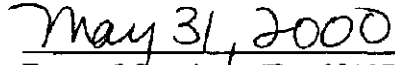
Date Signed

Dr. Janet Stern Solomon
Public Arbitrator

Date Signed

James M. Metcalf
Industry Arbitrator

Date Signed

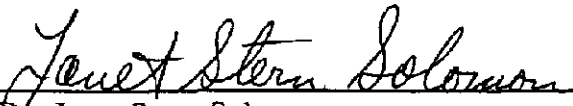


Date of Service (For NASD office use only)

CONCURRING ARBITRATORS' SIGNATURES

Carroll E. Dubuc, Esq.
Public Arbitrator, Presiding Chairman

Date Signed


Dr. Janet Stern Solomon
Public Arbitrator

5-26-00
Date Signed

James M. Metcalf
Industry Arbitrator

Date Signed

May 31, 2000
Date of Service (For NASD office use only)

CONCURRING ARBITRATORS' SIGNATURES

Carroll E. Dubuc, Esq.
Public Arbitrator, Presiding Chairman

Date Signed

Dr. Janet Stern Solomon
Public Arbitrator

Date Signed


James M. Metcalf
Industry Arbitrator

5/23/00
Date Signed

May 31, 2000

Date of Service (For NASD office use only)