

Award
NASD Dispute Resolution, Inc.

In the Matter of the Arbitration Between:

Frank Ritter on behalf of Frank Ritter I.R.A. v. Merrill Lynch, Pierce, Fenner & Smith, Inc. and Mary A. Robbs

Case Number: 99-2978

Hearing Site: Detroit, Michigan

REPRESENTATION OF PARTIES

Claimant, Frank N. Ritter on behalf of Frank N. Ritter I.R.A., hereinafter referred to as "Claimant": Walter L. Baumgardner, Esq., Musilli, Baumgardner, Wagner & Parnell, St. Clair Shores, Michigan.

Respondents, Merrill Lynch Pierce Fenner & Smith, Inc., and Mary Ann Robbs, hereinafter collectively referred to as "Respondents": Michael E. Olney, Esq., Merrill Lynch Pierce Fenner & Smith, Inc., New York, New York.

CASE INFORMATION

Statement of Claim filed on or about: June 29, 1999

Claimant, Frank N. Ritter on behalf of Frank N. Ritter I.R.A., signed the Uniform Submission Agreement: June 24, 1999

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

Respondent, Merrill Lynch Pierce Fenner & Smith, Inc., signed the Uniform Submission Agreement: September 27, 1999, by Martin S. Cohen

Respondent, Mary Ann Robbs, signed the Uniform Submission Agreement: August 5, 1999

Respondents' Motion for Leave to Amend Answer filed on or about August 7, 2000

Claimant's Response to Respondents' Motion for Leave to Amend Answer filed on or about July 31, 2000

Respondents' (Amended) Statement of Answer and Counterclaim filed on or about: September 13, 2000

Claimant's Response to Purported Counterclaim filed on or about: September 14, 2000

CASE SUMMARY

Claimant asserted causes of action including the following: Breach of contract; Common law fraud; Conspiracy, Promissory Estoppel; Conversion; Negligence; Malpractice; Breach of fiduciary duty; Churning; Breach of federal securities law; and Breach of Michigan Securities law. The causes of action relate to the Respondents' alleged mismanagement of Claimant's investments.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted the following affirmative defenses: the Statement of

Claim fails to state a claim against Respondents upon which relief can be granted; Claimant is estopped by his conduct from asserting against Respondents any and all claims alleged in the Statement of Claim; Claimant has, by his conduct, waived any claims he might have had against Respondents which may be alleged in the Statement of Claim; Claimant, acting with full knowledge and notice of the facts, ratified, approved, accepted, acquiesced and confirmed in all respects the acts complained of in the Statement of Claim; Respondents are not liable to Claimant in any amount because, at all times relevant herein, they acted properly, in good faith and in a commercially reasonable manner with respect to Claimant's accounts; Claimant assumed the risks of the investments which he made through Respondents, and through his unilateral decisions regarding when to purchase and whether to hold such securities; the Statement of Claim is barred by the applicable Statutes of Limitation; all transactions upon which Claimant bases his alleged claims against Respondents were conducted in accordance with all applicable Exchange rules and regulations; Claimant is not entitled to any recovery because his alleged claims are barred by laches; and Claimant has failed to mitigate his damages. Respondent Robbs filed a Counterclaim seeking expungement of her CRD record.

RELIEF REQUESTED

Claimant requested \$128,000.00 in damages, plus interest, costs, attorney fees, exemplary and punitive damages, rescission, and additional damages in an amount determined by the Panel.

Respondents requested the Statement of Claim be dismissed in its entirety, expungement of Respondent Robbs CRD record, costs, forum fees, and such other and further relief as deemed just and proper.

OTHER ISSUES CONSIDERED AND DECIDED

Claimant filed a Request for Dismissal on or about July 11, 2000. The Panel granted the Dismissal and did not adjudicate any claims contained in Claimant's Statement of Claim.

The Panel granted Respondents' Motion to Amend Statement of Answer on or about August 23, 2000.

AWARD

After considering the pleadings, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

- 1.) The Counterclaim for expungement of Respondent Mary Ann Robbs CRD record is granted;
- 2.) The panel recommends the expungement of all reference to the above

captioned arbitration from Respondent Mary Ann Robbs' registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 99-09, Respondent Robbs (CRD # 1092107) must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

- 3.) That other than Forum Fees which are specified below, the parties shall each bear their own costs and expenses incurred in this matter;
- 4.) That any relief not specifically enumerated, including punitive and exemplary damages is hereby denied with prejudice.

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	= \$300.00
Counterclaim filing fee	= \$250.00

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 persons at the time of the events giving rise to the dispute. In this matter, the member firm is a party.

Member surcharge	= \$1,500.00
Pre-hearing process fee	= \$ 600.00
Hearing process fee	= \$2,500.00

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

Two (2) Pre-hearing sessions with Panel x \$1,125.00	= \$2,250.00
Pre-hearing conferences: February 18, 2000 1 session	
June 23, 2000 1 session	
<hr/> Total Forum Fees	<hr/> = \$2,250.00

The Panel has assessed \$2,250.00 of the forum fees to Frank N. Ritter on behalf of Frank N. Ritter I.R.A.

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Fee Summary

Claimant, Frank N. Ritter I.R.A., be and hereby is solely liable for:

Initial Filing Fee	= \$ 300.00
Forum Fees	= \$ 2,250.00
Total Fees	= \$ 2,550.00
Less payments	= \$ 1,425.00
Balance due NASD Dispute Resolution, Inc.	= \$ 1,125.00

Respondent, Merrill Lynch Pierce Fenner & Smith, Inc., be and hereby is solely liable for:

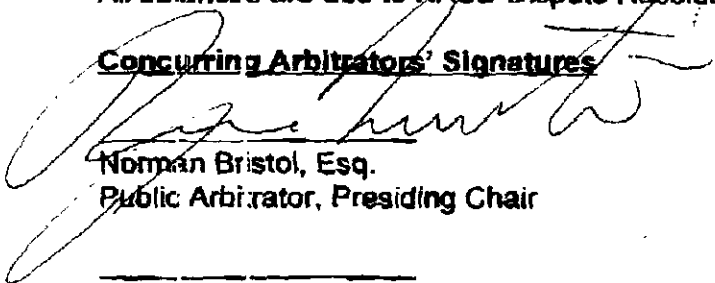
Member Fees	= \$ 4,600.00
Total Fees	= \$ 4,600.00
Less payments	= \$ 4,600.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 0.00

Respondent, Mary Ann Robbs and Merrill Lynch Pierce Fenner & Smith, Inc., be and hereby are jointly and severally liable for:

Type Filing Fee	= \$ 250.00
Total Fees	= \$ 250.00
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 250.00

All balances are due to NASD Dispute Resolution, Inc.

Concurring Arbitrators' Signatures


Norman Bristol, Esq.
Public Arbitrator, Presiding Chair

Signature Date

Alan Scherik
Public Arbitrator

Signature Date

Timothy D. Wasson
Industry Arbitrator

Signature Date

Date of Service (For NASD office use only)

NASD Dispute Resolution, Inc.
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Award Page 4 of 4

Fee Summary

Claimant, Frank N. Ritter I.R.A., be and hereby is solely liable for:

Initial Filing Fee	= \$ 300.00
Forum Fees	= \$ 2,250.00
Total Fees	= \$ 2,550.00
Less payments	= \$ 1,425.00
Balance due NASD Dispute Resolution, Inc.	= \$ 1,125.00

Respondent, Merrill Lynch Pierce Fenner & Smith, Inc., be and hereby is solely liable for:

Member Fees	= \$ 4,600.00
Total Fees	= \$ 4,600.00
Less payments	= \$ 4,600.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 0.00

Respondent, Mary Ann Robbs and Merrill Lynch Pierce Fenner & Smith, Inc., be and hereby are jointly and severally liable for:

Type Filing Fee	= \$ 250.00
Total Fees	= \$ 250.00
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 250.00

All balances are due to NASD Dispute Resolution, Inc.

Concurring Arbitrators' Signatures

Norman Bristol, Esq.
Public Arbitrator, Presiding Chair

Signature Date

Alan Schenk
Public Arbitrator

Signature Date

Timothy D. Weston
Industry Arbitrator

Signature Date

12/14/00

Date of Service (For NASD office use only)

NASD Dispute Resolution, Inc.
 Arbitration # 99-2978
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Fee Summary

Claimant, Frank N. Ritter I.R.A., be and hereby is solely liable for:

Initial Filing Fee	= \$ 300.00
Forum Fees	= \$ 2,250.00
Total Fees	= \$ 2,550.00
Less payments	= \$ 1,425.00
Balance due NASD Dispute Resolution, Inc.	= \$ 1,125.00

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Member Fees	= \$ 4,600.00
Total Fees	= \$ 4,600.00
Less payments	= \$ 4,600.00
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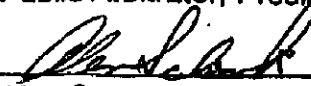
Type Filing Fee	= \$ 250.00
Total Fees	= \$ 250.00
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 250.00

All balances are due to NASD Dispute Resolution, Inc.

Concurring Arbitrators' Signatures

Norman Bristol, Esq.
 Public Arbitrator, Presiding Chair

Signature Date


 Alan Schenk
 Public Arbitrator

Dec. 14, 2000
 Signature Date

Timothy D. Wasson
 Industry Arbitrator

Signature Date

Date of Service (For NASD office use only)