
Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimant
Teshome Bokan

Case Number: 03-00352

Name of the Respondent
Merrill Lynch, Pierce, Fenner & Smith, Inc.

Hearing Site: Boca Raton, Florida

Nature of the Dispute: Customer vs. Member.

REPRESENTATION OF PARTIES

For Teshome Bokan, hereinafter referred to as "Claimant": Daniel R. Solin, Esq. and David Valicenti, Esq., Cain Hibbard Myers & Cook, PC, Pittsfield, Massachusetts and Howard M. Rosenfield, Esq., Boca Raton, Florida.

For Merrill Lynch, Pierce, Fenner & Smith, Inc. ("Merrill Lynch"), hereinafter referred to as "Respondent": Alex J. Sabo, Esq., Bressler, Amery & Ross, P.C., Miramar, Florida.

CASE INFORMATION

Statement of Claim filed on or about: January 13, 2003.

Claimant signed the Uniform Submission Agreement: December 12, 2002.

Statement of Answer filed by Respondent on or about: April 14, 2003.

Respondent signed the Uniform Submission Agreement: February 26, 2003.

Amended Statement of Claim filed by Claimant on or about: February 24, 2004.

Answer to Amended Statement of Claim filed by Respondent on or about: March 10, 2004.

CASE SUMMARY

Claimant asserted the following causes of action: 1) unsuitable and inappropriate investments; 2) misrepresentations; 3) breach of fiduciary duty; 4) fraud; 5) failure to supervise; 6) violation of federal securities laws, NASD Rules of Fair Practice and NYSE Rules; and, 7) unauthorized transfer of funds. The causes of action relate to the purchase and sale of various stocks in Claimant's accounts, including, but not limited to, Oracle Corp., United Leisure Corp., Sun Microsystems Inc., Cisco Systems Inc., Mercury Interactive Corp., Verizon Communications Co., Texas Instruments, Starbucks Corp., Information Holdings Inc., Exelon Corporation and Walt Disney Corp.

Unless specifically admitted in its Answer, Respondent denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

Claimant requested compensatory damages in the amount of \$363,356.08 plus interest at the legal rate from October 1999, additional compensatory damages in the amount of \$45,000.00 plus interest at the legal rate from June 23, 2000, punitive damages, attorney's fees, costs and expenses.

Respondent requested that the Statement of Claim be dismissed in its entirety, assessment of all forum fees against Claimant and such other and further relief as the Panel deemed just and proper. In addition, Respondent asserted its intent to seek an award of costs and attorney's fees in a court of competent jurisdiction pursuant to Florida Statutes Chapters 517.105 and 517.211(6).

OTHER ISSUES CONSIDERED AND DECIDED

On or about February 24, 2004, Claimant filed an Amended Statement of Claim, which was unopposed by Respondent. The Panel approved the filing of the Amended Statement of Claim.

During the final hearing, Respondent made a motion to postpone the hearing. The Panel denied Respondent's motion. In addition, Claimant informed the Panel that he was withdrawing his request for attorney's fees.

The parties have agreed that the Award in this matter may be entered in counterpart copies or that a signed handwritten Award may be entered.

AWARD

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

- 1) Respondent is liable on the claim of suitability and shall pay to Claimant compensatory damages in the amount of \$321,700.00.
- 2) Respondent is liable on the claim of unauthorized transfer of funds and shall pay to Claimant compensatory damages in the amount of \$45,000.00.
- 3) Respondent is liable and shall pay to Claimant interest at the rate of 9% per annum, on the total amount of compensatory damages awarded, from July 1, 2002 until the date of payment of the Award.
- 4) Respondent is liable for costs incurred and shall pay to Claimant \$30,000.00 for airfare and travel expenses and \$9,000.00 for expert witness fees.
- 5) Respondent is liable and shall pay to Claimant the sum of \$300.00 representing reimbursement of the claim filing fee previously paid by Claimant to NASD Dispute Resolution.
- 6) Any and all claims for relief not specifically addressed herein, including Claimant's request for punitive damages, are denied.

FEES

Pursuant to the NASD Code of Arbitration Procedure (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 = \$300.00

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. Accordingly, Respondent is a party to this dispute and was a member of NASD at the time the following fees were assessed:

Member surcharge = \$1,700.00
Pre-hearing process fee = \$ 750.00
Hearing process fee = \$2,750.00

Adjournment Fees

No requests for adjournments were filed in this matter for which fees were assessed.

Injunctive Relief Fees

No injunctive relief fees were incurred during this proceeding.

Forum Fees and Assessments

The Panel has assessed forum fees for each session conducted. A 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:

Four (4) Pre-hearing sessions with a single arbitrator @ \$450.00	= \$1,800.00
Pre-hearing conferences:	
September 23, 2003 1 session	
February 19, 2004 1 session	
February 20, 2004 1 session	
March 10, 2004 1 session	
One (1) Pre-hearing session with the Panel @ \$1,125.00	= \$1,125.00
Pre-hearing conference:	
September 16, 2003 1 session	
Four (4) Hearing sessions with the Panel @ \$1,125.00	= \$4,500.00
Hearing Dates:	
March 16, 2004 2 sessions	
March 17, 2004 2 sessions	
<hr/> Total Forum Fees	<hr/> = \$7,425.00

The Panel has assessed the total forum fees of \$7,425.00 to Respondent.

Administrative Costs

Administrative costs are expenses incurred due to a request by a party for special services beyond the normal administrative services. These include, but not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

No administrative costs were incurred during this proceeding.

Fee Summary

Claimant is solely liable for:

<u>Initial Filing Fee</u>	= \$ 300.00
<u>Total Fees</u>	= \$ 300.00
<u>Less payments</u>	= \$ 300.00
<u>Balance Due NASD Dispute Resolution</u>	= \$ 0.00

Respondent is solely liable for:

<u>Member Fees</u>	= \$ 5,200.00
<u>Forum Fees</u>	= \$ 7,425.00
<u>Total Fees</u>	= \$ 12,625.00
<u>Less payments</u>	= \$ 7,950.00
<u>Balance Due NASD Dispute Resolution</u>	= \$ 4,675.00

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

ARBITRATION PANEL

<i>John J. Hearn, Esq.</i>	-	<i>Public Arbitrator, Presiding Chairperson</i>
<i>Thomasina H. Williams, Esq.</i>	-	<i>Public Arbitrator</i>
<i>Fred A. Forbes, Jr.</i>	-	<i>Non-Public Arbitrator</i>

Concurring Arbitrators' Signatures

 /s/
John J. Hearn, Esq.
Public Arbitrator, Presiding Chairperson

03/22/04
Signature Date

 /s/
Thomasina H. Williams, Esq.
Public Arbitrator

03/19/04
Signature Date

/s/
Fred A. Forbes, Jr.
Non-Public Arbitrator

03/19/04
Signature Date

03/22/04
Date of Service (For NASD Dispute Resolution office use only)

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Thomasina H. Williams, Esq.

Fred A. Forbes, Jr.

Public Arbitrator, Presiding Chairperson

Public Arbitrator

Non-Public Arbitrator

Concurring Arbitrators' Signatures

John J. Hearn
John J. Hearn, Esq.

Public Arbitrator, Presiding Chairperson

March 22, 2004
Signature Date

Thomasina H. Williams, Esq.
Public Arbitrator

Signature Date

NASD

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Thomasina H. Williams, Esq.

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Public Arbitrator, Presiding Chairperson

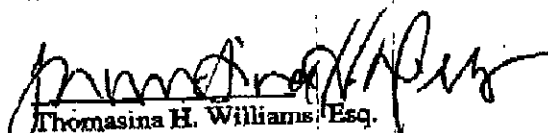
Public Arbitrator

Non-Public Arbitrator

Concurring Arbitrators' Signatures

John J. Hearn, Esq.

Public Arbitrator, Presiding Chairperson




Thomasina H. Williams, Esq.
Public Arbitrator

Signature Date

19 MARCH 2004

Signature Date

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Fred A. Forbes, Jr.
Non-Public Arbitrator

3-19-04
Signature Date

Date of Service (For NASD Dispute Resolution office use only)