

**Award
FINRA Dispute Resolution**

In the Matter of the Arbitration Between:

John J. Baker, Natalie N. Baker, and Harriet B. Baker (Claimants) vs. Merrill Lynch, Pierce, Fenner & Smith, Incorporated (Respondent)

Case Number: 09-06762

Hearing Site: New York, New York

Nature of the Dispute: Customers vs. Member.

REPRESENTATION OF PARTIES

Claimants John J. Baker ("J. Baker"), Natalie N. Baker ("N. Baker"), and Harriet B. Baker (H. Baker), hereinafter collectively referred to as "Claimants": Barry R. Lax, Esq. and Brian J. Neville, Esq., Lax & Neville, LLP, New York, NY.

Respondent Merrill Lynch, Pierce, Fenner, & Smith, Incorporated, hereinafter referred to as "Respondent": Curt Roy Hineine, Esq., Bracewell & Giuliani LLP, Seattle, WA.

CASE INFORMATION

Statement of Claim filed on or about: December 1, 2009.

J. Baker signed the Submission Agreement: November 24, 2009.

N. Baker signed the Submission Agreement: November 24, 2009.

H. Baker signed the Submission Agreement: November 24, 2009.

Statement of Answer filed by Respondent on or about: March 12, 2010.

Respondent signed the Submission Agreement: March 26, 2010.

CASE SUMMARY

Claimants asserted the following causes of action: violation of the Securities and Exchange Act of 1934, unsuitability, common law fraud, breach of fiduciary duty, breach of contract, failure to supervise, respondeat superior, negligence, gross negligence, and negligent supervision. The causes of action relate to the Merrill Lynch Phil Scott Team Income Portfolio.

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

RELIEF REQUESTED

Claimants requested compensatory damages in the amount of \$1,700,000.00, interest to run until the date that the award is fully paid and satisfied, unspecified punitive damages based upon Respondent's reprehensible, egregious and fraudulent conduct relating to Claimants' investments, all expenses, attorneys' fees, disbursements, and such other relief as the Panel deems just and proper.

Respondent requested dismissal of the Statement of Claim in its entirety.

OTHER ISSUES CONSIDERED AND DECIDED

The Arbitrators acknowledge that they have each read the pleadings and other materials filed by the parties.

At the hearing, Claimants made a Motion for Sanctions and Respondent objected. The Panel granted Claimants' Motion and assessed fees for hearings on discovery to Respondent as sanctions against Respondent for untimely compliance with the Panel's orders to compel the production of documents.

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.

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 for and shall pay to Claimants compensatory damages in the amount of \$880,000.00.
2. Any and all relief not specifically addressed herein, including punitive damages, is denied

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

FINRA Dispute Resolution assessed a filing fee* for each claim:

Initial claim filing fee = \$ 1,800.00

* The filing fee is made up of a non-refundable and a refundable portion.

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. Accordingly, as a party, Merrill Lynch, Pierce, Fenner & Smith, Incorporated, is assessed the following:

Member surcharge	= \$ 2,800.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$ 5,000.00

Hearing Session Fees and Assessments

The Panel has assessed hearing session 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:

Three (3) Pre-hearing sessions with Panel @ \$1,200.00	= \$ 3,600.00
Pre-hearing conferences:	
June 21, 2010	1 session
September 14, 2010	1 session
April 26, 2011	1 session
Twenty-six (26) Hearing sessions @ \$1,200.00	= \$31,200.00
Hearing Dates:	
March 21, 2011	2 sessions
March 22, 2011	2 sessions
March 23, 2011	2 sessions
March 24, 2011	2 sessions
March 25, 2011	2 sessions
March 28, 2011	2 sessions
March 29, 2011	2 sessions
March 30, 2011	2 sessions
May 16, 2011	2 sessions
May 17, 2011	2 sessions
May 18, 2011	2 sessions
May 19, 2011	2 sessions
May 20, 2011	2 sessions
<hr/> Total Hearing Session Fees	<hr/> = \$34,800.00

The Panel has assessed \$34,800.00 of the hearing session fees to Respondent.


All balances are payable to FINRA Dispute Resolution and are due upon receipt.

ARBITRATION PANEL

Bernard A. Friedman - Public Arbitrator, Presiding Chairperson
Bernard Korman - Public Arbitrator
James Sloan Altschul - Non-Public Arbitrator

I, the undersigned Arbitrator, 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.

Concurring Arbitrators' Signatures


Bernard A. Friedman
Public Arbitrator, Presiding Chairperson


Signature Date

Bernard Korman
Public Arbitrator

Signature Date

James Sloan Altschul
Non-Public Arbitrator

Signature Date

June 23, 2011

Date of Service (For FINRA Dispute Resolution use only)

ARBITRATION PANEL

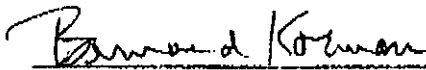
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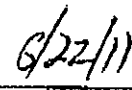
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