

**Award
FINRA Dispute Resolution**

In the Matter of the Arbitration Between:

Stephen Brooks (Claimant) vs. Merrill Lynch Investment Managers LP and FAM Distributors, Inc. (Respondents)

Case Number: 07-01140

Hearing Site: New York, New York

Nature of the Dispute: Associated Person vs. Non-Member and Member.

REPRESENTATION OF PARTIES

Claimant Stephen Brooks hereinafter referred to as "Claimant": Ethan A. Brecher, Esq., Liddle & Robinson, L.L.P., New York, NY.

Respondents Merrill Lynch Investment Managers LP ("MLIM") and FAM Distributors, Inc. ("FAM"), hereinafter collectively referred to as "Respondents": Michael J. Fortunato, Esq., Rubin, Fortunato & Harbison, P.C., Paoli, PA.

CASE INFORMATION

Statement of Claim filed on or about: April 9, 2007.

Amended Statement of Claim filed on or about: September 26, 2007.

Claimant signed the Uniform Submission Agreement: April 2, 2007.

Statement of Answer and Affirmative Defenses to Amended Statement of Claim filed by MLIM on or about: October 5, 2007.

MLIM signed the Uniform Submission Agreement: September 27, 2007.

Statement of Answer and Affirmative Defenses filed by FAM on or about: June 29, 2007.

FAM signed the Uniform Submission Agreement: May 11, 2007.

CASE SUMMARY

In his Statement of Claim and Amended Statement of Claim, Claimant asserted the following causes of action: violation of the severance policy, violation of Federal Employees Retirement Income Securities Act of 1974 ("ERISA"), 29 U.S.C. § 1001, et seq., breach of contract, unpaid bonus compensation and commissions for 2006 under the doctrine of "quantum meruit" or unjust enrichment, breach of implied contract to pay a bonus, and breach of implied-in-fact agreement to provide benefits for severance payments.

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

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

RELIEF REQUESTED

In his Statement of Claim and Amended Statement of Claim, Claimant requested \$203,076.92 in severance pay, \$55,000.00 in bonus compensation, vesting of his 1,201 Merrill Lynch Restricted Shares and the exercising of 156 shares of stock options. Claimant further requested \$120,000.00 in unpaid commissions and \$10,000.00 retirement contribution, interest, attorneys' fees and costs, and such other and further relief as the Panel deems just and appropriate.

MLIM requested dismissal of the Amended Statement of Claim in its entirety, and all other relief that the Panel deems reasonable and appropriate.

FAM requested dismissal of the Statement of Claim in its entirety and all other relief that the Panel deems reasonable and appropriate.

OTHER ISSUES CONSIDERED AND DECIDED

On or about September 26, 2007, Claimant amended his Statement of Claim removing FAM Distributors as a party to this arbitration case.

MLIM is not a member of FINRA, but having filed a properly executed Uniform submission Agreement, and having answered the claim, appeared and testified at the hearing is bound by the determination of the Panel on all issues submitted.

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, and the post-hearing submissions, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondent MLIM is liable for and shall pay to Claimant liquidated damages in the amount of \$94,076.00.
2. Claimant is entitled to and shall receive from Respondent MLIM his vested shares of stock options pursuant to the respective schedules as it was introduced into evidence at the hearing under which it was awarded.
3. Respondent MLIM is liable for and shall pay to Claimant attorneys' fees in the

- Respondent MLIM is liable for and shall pay to Claimant attorneys' fees in the amount of \$55,000.00 in accordance with Title 29 of the U.S. Code, § 1132(g).
- Any and all relief not specifically addressed herein is denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

FINRA 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, FAM Distributors, Inc, is a party.

Member surcharge = \$ 1,700.00

Pre-hearing process fee = \$ 750.00

Hearing process fee = \$ 2,750.00

Forum Fees and Assessments

The Panel has assessed forum fees for each session conducted or each decision rendered on either a discovery-related motion on the papers or a contested motion for the issuance of a subpoena. A session is any meeting between the parties and the arbitrators, including a pre-hearing conference with the arbitrators that last four (4) hours or less. Fees associated with these proceedings are:

One (1) Pre-hearing session with a single arbitrator @ \$450.00/session = \$ 450.00
Pre-hearing conference: March 18, 2008 1 session

One (1) Pre-hearing session with Panel @ \$1,125.00/session = \$ 1,125.00
Pre-hearing conference: October 1, 2007 1 session

Six (6) Hearing sessions @ \$1,125.00/session = \$ 6,750.00
Hearing Dates: April 1, 2008 2 sessions
April 2, 2008 2 sessions
April 3, 2008 2 sessions

Total Forum Fees = \$8,325.00

- The Panel has assessed \$4,162.50 of the forum fees to Claimant.
- The Panel has assessed \$4,162.50 of the forum fees to MLIM.

FEE SUMMARY

- Claimant is solely liable for:

Initial Filing Fee = \$ 300.00

Forum Fees = \$ 4,162.50

Total Fees	= \$ 4,462.50
<u>Less payments</u>	<u>= \$ 1,425.00</u>
Balance Due FINRA Dispute Resolution	= \$ 3,037.50

2. FAM is solely liable for :

<u>Member Fees</u>	<u>= \$ 5,200.00</u>
Total Fees	= \$ 5,200.00
<u>Less payments</u>	<u>= \$ 5,200.00</u>
Balance Due FINRA Dispute Resolution	= \$ 0.00

3. MLIM is liable for :

<u>Forum Fees</u>	<u>= \$ 4,162.50</u>
Total Fees	= \$ 4,162.50
<u>Less payments</u>	<u>= \$ 0.00</u>
Balance Due FINRA Dispute Resolution	= \$ 4,162.50

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

ARBITRATION PANEL

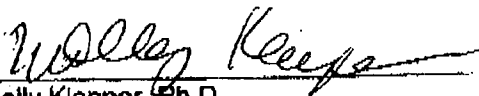
Richard W. Cutler	-	Public Arbitrator, Presiding Chairperson
Molly Klapper, Ph.D	-	Public Arbitrator
Jerome Martin Pustilnik	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

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.

Richard W. Cutler
Public Arbitrator, Presiding Chairperson

Signature Date



Molly Klapper, Ph.D
Public Arbitrator

5.17.08

Signature Date

Jerome Martin Pustilnik
Non-Public Arbitrator

Signature Date

May 21, 2008


Date of Service (For FINRA Dispute Resolution use only)

ARBITRATION PANEL

Richard W. Cutler	-	Public Arbitrator, Presiding Chairperson
Molly Klapper, Ph.D	-	Public Arbitrator
Jerome Martin Pustilnik	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

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.



Richard W. Cutler
Public Arbitrator, Presiding Chairperson

5/19/08

Signature Date

Molly Klapper, Ph.D
Public Arbitrator

Signature Date

Jerome Martin Pustilnik
Non-Public Arbitrator

Signature Date

May 21, 2008

Date of Service (For FINRA Dispute Resolution use only)

ARBITRATION PANEL

Richard W. Cutler - Public Arbitrator, Presiding Chairperson
Molly Klapper, Ph.D - Public Arbitrator
Jerome Martin Pustilnik - Non-Public Arbitrator

Concurring Arbitrators' Signatures

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.

Richard W. Cutler
Public Arbitrator, Presiding Chairperson

Signature Date

Molly Klapper, Ph.D
Public Arbitrator

Signature Date



Jerome Martin Pustilnik
Non-Public Arbitrator

05-20-08

Signature Date

May 21, 2008

Date of Service (For FINRA Dispute Resolution use only)

**VIA FACSIMILE**

June 12, 2008

Ethan A. Brecher, Esq.
Liddle & Robinson, L.L.P.
800 Third Avenue
New York, NY 10022

Subject: FINRA Dispute Resolution Arbitration Number 07-01140
Stephen Brooks v. Merrill Lynch Investment Managers LP

Dear Mr. Brecher:

The Panel reviewed all submissions in connection with Claimant's request for clarification of the Award and issued the enclosed decision dated June 10, 2008.

Please contact our office should you have any questions.

Very truly yours,



Yvonne Martin
Case Administrator
212-858-4200 Fax: 301-527-4904

VM:clo:LC581
idr: 04/25/2008

CC:

Richard W. Cutler
Molly Klapper, Ph D
Jerome Martin Pustilnik

RECIPIENTS:

Ethan A. Brecher, Esq., Stephen Brooks
Liddle & Robinson, L.L.P., 800 Third Avenue, New York, NY 10022

Michael J. Fortunato, Esq., Merrill Lynch Investment Managers LP
Rubin, Fortunato & Harbison P.C., 10 South Leopard Road, Paoii, PA 19301

Martin, Vanier

From: Richard Cutler
Sent: Tuesday, June 10, 2008 1:25 PM
To: Martin, Vanier
Subject: Broke v. MLIM #07-1140

Dear Vanier,

This relates to Claimant's request for a clarification of the panel's award. I can now clarify that the panel's intention in Part 2 the original award is that Claimant be awarded (i) his 1,201 restricted shares and (ii) 156 stock options, all of which vest and are exercisable as per the schedules of their respective grants to Claimant.

Thank you,

All my best,
Richard Cutler

6/10/2008