

**IN ARBITRATION  
UNDER CHAPTER XVIII OF THE RULES  
OF THE CHICAGO BOARD OPTIONS EXCHANGE, INCORPORATED**

In The Matter Of	)	
	)	
	)	
	)	
AOT USA,	)	
	)	
Claimants	)	DECISION
	)	
v.	)	File No. 01M001
	)	
Merrill Lynch Professional,	)	
Clearing Corp.,	)	
	)	
Respondents.	)	
	)	

**Representation**

For Claimants:	Robert Lewin and James Judge, Vanasco, Genelly, & Miller, Chicago, Illinois
For Respondent:	Peter Cooper, Lawrence, Kamin, Saunders, & Uhlenhop, Chicago, Illinois

**Pleadings**

Statement of Claim and Submission Agreement, filed on or about:	January 16, 2001
Answer, filed on or about:	May 25, 2001

**Hearing**

The named parties appeared at the hearing sessions specified below, and had full opportunity to present arguments and evidence.

<u>Date(s)</u>	<u>No. of Sessions</u>	<u>Location</u>
January 7, 2003	2	Chicago, Illinois
January 8, 2003	2	Chicago, Illinois
January 10, 2003	1	Chicago, Illinois

### Summary of Issues

On January 16, 2001, AOT USA ("Claimant") filed a Statement of Claim against Merrill Lynch Professional Clearing Corporation claiming that, on October 25, 2000, Respondent improperly effected a "buy-in" (the "buy-in") in Terra Networks S.A. Claimant asserts that the "buy-in" was executed at a price without economic justification and did not conform to the procedural rules contained in NASD Regulation 11810 of the NASD's Uniform Practice Code. Claimant alleges that, as a direct result of Respondent's failure to conform to NASD regulations in executing the buy-in, Claimant suffered a loss of One Million Two Hundred Eleven Thousand Four Hundred Ninety Four and 00/100 Dollars (\$1,211,494.00). In its answer, and at the hearing, Respondent refutes Claimant's allegations.

Claimant requests that Claimant be awarded \$1,211,494.00 in compensatory damages, plus punitive damages in the amount of Twenty Five Million Dollars (\$25,000,000), plus reasonable attorney fees, all to be paid by Respondent.

### Award\*

After due deliberation and in consideration of the hearing testimony, documentary evidence, and other submissions made by the parties, the undersigned arbitrators, in full and final resolution of all issues in controversy, award as follows:

1. The panel denies Claimant's request for compensatory damages.
2. The panel denies Claimant's request for punitive damages.
3. The panel denies Claimant's request for attorney fees.
4. Claimant shall be responsible for \$8,250.00 in forum fees.
5. Respondent shall be responsible for \$3,750 in forum fees.

### Forum Fees

Pursuant to Exchange Rule 18.33, the Arbitrators assess the following forum fees:

Initial Filing Fee – Claim	\$1,500
Hearing Session Fees ( 5 x \$1,500)	\$7,500
Pre-Hearing Session Fees (2 x \$500)	\$1,000
Adjournment Fee (2 x \$1,000)	\$2,000
Total	\$12,000

1. Responsibility for the forum fees, totaling \$12,000, shall be assessed as follows: Claimant shall be responsible for \$8,250 and Respondent shall be responsible for \$3,750.

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\* Pursuant to CBOE Rule 18.31, all monetary awards shall be paid within thirty (30) days of receipt unless a motion to vacate has been filed with a court of competent jurisdiction.

2. The Exchange shall retain the non-refundable filing fees in the amount of \$1,500 and the hearing session deposit in the amount of \$1,500, both previously submitted by Claimants.
3. Claimants shall submit \$5,250 to the Chicago Board Options Exchange, Incorporated.
4. Respondent shall submit \$3,750 to the Chicago Board Options Exchange, Incorporated.

/s/ Samuel B. Garber  
Samuel B. Garber, Chairman and Public Arbitrator

January 27, 2003  
Date

/s/ Charles W. Palm  
Charles W. Palm, Industry Arbitrator

January 29, 2003  
Date

/s/ Michael D. Coyle  
Michael D. Coyle, Industry Arbitrator

January 28, 2003  
Date