

**STIPULATED AWARD  
NASD Dispute Resolution**

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In the Matter of the Arbitration Between

Names of Claimants

BT & BB Turakhia Family Ltd. and  
Bhupendra Turakhia, M.D.

and

Case Number: 02-04589  
Hearing Site: Houston, Texas

Names of Respondents

Merrill Lynch Pierce Fenner & Smith, Inc.  
d/b/a Merrill Lynch & Co. and  
Alvin A. Murgai

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**NATURE OF DISPUTE**

Customers v. Member Firm and Associated Person

**REPRESENTATION OF PARTIES**

BT & BB Turakhia Family Ltd. and Bhupendra Turakhia, M.D. ("**Claimants**") were represented by Wayne A. Risoli, Esq., Chamberlain, Hrdlicka, White, Williams and Martin, Houston, Texas.

Merrill Lynch Pierce Fenner & Smith, Inc., d/b/a Merrill Lynch & Co., ("**Merrill Lynch**") and Alvin A. Murgai ("**Murgai**"), hereinafter collectively referred to as "Respondents," were represented by Charles A. Gall, Esq., Jenkins & Gilchrist, Dallas, Texas.

**CASE INFORMATION**

The Statement of Claim was filed on or August 5, 2002. The Uniform Submission Agreement of Claimant, BT & BB Turakhia Family Ltd., was signed on or about August 2, 2002. The Uniform Submission of Claimant, Bhupendra Turakhia, M.D., was signed on or about August 2, 2002.

The Statement of Answer was filed jointly by Respondents, Merrill Lynch Pierce Fenner & Smith, Inc. and Alvin Murgai on or about October 4, 2003. The Uniform Submission Agreement of Respondent, Merrill Lynch Pierce Fenner & Smith, Inc., was signed on or about October 10, 2002. The Uniform Submission Agreement of Respondent, Alvin Murgai, was signed on or about October 14, 2002.

### **CASE SUMMARY**

Claimants asserted the following causes of action: breach of fiduciary duty, omission of facts, manipulations, misrepresentations, negligence and failure to supervise. The claims arose from the purchase of various unspecified stocks.

Respondents, Merrill Lynch and Murgai, denied the allegations made in the Statement of Claim and asserted defenses including the following: Respondents duty to Claimants was limited because this was a non-discretionary account and Respondents did not stand in a fiduciary relationship with Claimants.

### **RELIEF REQUESTED**

Claimants requested an award in the amount of:

Actual/Compensatory	\$11,500,000.00
Punitive/Exemplary	Unspecified
Attorney's Fees	Unspecified
Other Costs	Unspecified
Other Monetary Relief	Unspecified
Interest	Unspecified

Respondents requested that the claims asserted against them be denied in their entirety, that they be awarded their costs, attorneys' fees and that Murgai's CRD record be expunged of all reference to this arbitration.

### **OTHER ISSUES CONSIDERED & DECIDED**

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. In either case, the parties have agreed to receive conformed copies of the award while the original(s) remain on file with NASD Dispute Resolution ("NASD").

### **AWARD**

After considering the parties' submissions and representations, but without making any findings of fact or conclusions of law, the undersigned arbitrator orders as follows:

- 1.) Claimants' claims against Respondents, Merrill Lynch and Alvin Murgai, are hereby dismissed with prejudice;
- 2.) Other than Forum Fees which are specified below, the parties shall each

bear their own costs and expenses incurred in this matter;

- 3.) The panel recommends the expungement of all reference to the above captioned arbitration from Respondent, Alvin Murgai's, registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 99-09, Respondent, Alvin Murgai, must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive; and
- 4.) Any relief not specifically enumerated, including punitive damages and attorney fees, is hereby denied with prejudice.

### **FEES**

Pursuant to 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	= \$ 600.00
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#### **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. In this matter, the member firm is Merrill Lynch Pierce Fenner & Smith, Inc.

Member surcharge	=\$3,750.00
Pre-hearing process fee	=\$ 750.00
Hearing process fee	=\$5,500.00

#### **Adjournment Fees**

Adjournments requested during these proceedings:

September 15-19, 2003, adjournment requested by Claimants (waived by the panel)	=\$1,200.00
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#### **Forum Fees and Assessments**

The Arbitration Panel assesses forum fees for each hearing session conducted. A hearing 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:

One (1) Pre-hearing session with a single arbitrator x \$450.00 = \$ 450.00  
Pre-hearing conference: June 24, 2004 1 session

Two (2) Pre-hearing sessions with Panel x \$1,200.00 = \$2,400.00  
Pre-hearing conferences: February 17, 2003 1 session  
September 4, 2003 1 session

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Total Forum Fees = \$2,850.00

The panel has assessed \$1,425.00 of the forum fees jointly and severally to BT & BB Turakhia Family Ltd. and Bhupendra Turakhia, M.D.

The panel has assessed \$1,425.00 of the forum fees jointly and severally to Merrill Lynch Pierce Fenner & Smith, Inc., and Alvin A. Murgai.

#### Fee Summary

Claimants, BT & BB Turakhia Family Ltd. and Bhupendra Turakhia, M.D., are jointly and severally liable for:

Initial Filing Fee	= \$ 600.00
Forum Fees	= \$1,425.00
Total Fees	= \$2,025.00
Less payments	= \$1,800.00
Balance Due NASD Dispute Resolution	= \$ 225.00

Respondent, Merrill Lynch Pierce Fenner & Smith, Inc., is liable for:

Member Fees	= \$10,000.00
Total Fees	= \$10,000.00
Less payments	= \$10,000.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondents, Merrill Lynch Pierce Fenner & Smith, Inc. and Alvin A. Murgai, are jointly and severally liable for:

Forum Fees	= \$1,425.00
Total Fees	= \$1,425.00
Less payments	= \$ .00
Balance Due NASD Dispute Resolution	= \$1,425.00

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

**ARBITRATION PANEL**

Jerry C. Prestridge, Esq. - Public Arbitrator, Presiding Chair  
James Mervin Benson, Jr., Esq. - Public Arbitrator  
Gregory E. Cater - Non-Public Arbitrator

Concurring Arbitrators:

/s/ Jerry C. Prestridge  
Jerry C. Prestridge  
Public Arbitrator, Presiding Chair

October 21, 2004  
Signature Date

/s/ James Mervin Benson  
James Mervin Benson  
Public Arbitrator

October 25, 2004  
Signature Date

Gregory E. Cater  
Non-Public Arbitrator


Signature Date

October 29, 2004  
Date of Service (For NASD office use only)

**ARBITRATION PANEL**

Jerry C. Prestridge, Esq. - Public Arbitrator, Presiding Chair  
James Mervin Benson, Jr., Esq. - Public Arbitrator  
Gregory E. Cater - Non-Public Arbitrator

**Concurring Arbitrators:**

  
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Jerry C. Prestridge  
Public Arbitrator, Presiding Chair

10-21-04  
\_\_\_\_\_  
Signature Date

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James Mervin Benson  
Public Arbitrator

\_\_\_\_\_  
Signature Date

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Gregory E. Cater  
Non-Public Arbitrator

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James Mervin Benson, Jr., Esq. - Public Arbitrator  
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