

---

**Stipulated Award**  
**NASD Dispute Resolution**

---

In the Matter of the Arbitration Between:

Names of the Claimants

Case Number: 03-00195

Karim Pirani, Individually  
MLPF&S FBO Steve M. Calderon, IRA,  
FBO Steve M. Calderon  
MLPF&S Cust. FBO Steve M. Calderon SEP,  
FBO Steve M. Calderon  
MLPF&S Cust. FBO Celina M. Calderon, IRA,  
FBO Celina M. Calderon  
Steve M. Calderon and Celina Calderon, JTWRS  
Steve M. Calderon, C/F Marcos D. Calderon, UTMA/FL  
Steve M. Calderon, C/F Daniela A. Calderon, UTMA/FL  
Steve M. Calderon, C/F Lucas G. Calderon, UTMA/FL  
Steve M. Calderon, C/F Stephen M. Calderon, UTMA/FL  
Nicole Y. Calderon, Individually

Names of the Respondents

Hearing Site: Boca Raton, Florida

Merrill Lynch Pierce Fenner & Smith, Inc.  
Ivette Cazanias  
Jose Vidal  
Henry Blodget  
Deepak Raj  
Darryl D. Cook  
Andrew Melnick

---

Nature of the Dispute: Customer vs. Member and Associated Person.

**REPRESENTATION OF PARTIES**

For Karim Pirani, Individually ("Pirani"); MLPF&S FBO Steve M. Calderon, IRA, FBO Steve M. Calderon ("S. Calderon IRA"); MLPF&S Cust. FBO Steve M. Calderon SEP, FBO Steve M. Calderon ("S. Calderon SEP"); MLPF&S Cust. FBO Celina M. Calderon, IRA, FBO Celina M. Calderon ("C. Calderon IRA"); Steve M. Calderon and Celina Calderon, JTWRS ("S. Calderon and C Calderon JTWRS"); Steve M. Calderon, C/F Marcos D. Calderon, UTMA/FL ("M. Calderon UTMA/FL"); Steve M. Calderon, C/F Daniela A. Calderon, UTMA/FL ("D. Calderon UTMA/FL"); Steve M. Calderon, C/F Lucas G. Calderon, UTMA/FL ("L. Calderon UTMA/FL"); Steve M. Calderon, C/F Stephen M. Calderon, UTMA/FL ("S. Calderon UTMA/FL"); and, Nicole Y. Calderon, Individually ("N. Calderon"), hereinafter collectively referred to as "Claimants": Michael Seth Cohen, Esq., Law Offices of Michael Seth Cohen, Coral Gables, Florida.

For Merrill Lynch Pierce Fenner & Smith, Inc. ("Merril Lynch"), Ivette Cazanans ("Cazanans"), Jose Vidal ("Vidal"), and Darryl D. Cook ("Cook"), hereinafter collectively referred to as "Respondents Merrill Lynch, Cazanans, Vidal and Cook": Bennett Falk, Esq., Bressler, Amery & Ross, P.C., Miramar, Florida.

For Henry Blodget, hereinafter referred to as "Respondent Blodget": Joseph D. Edmondson, Esq., Foley & Lardner, Washington, DC.

For Deepak Raj, hereinafter referred to as "Respondent Raj": Betty Santangelo, Esq., Schulte, Roth & Zabel, LLP, New York, New York.

For Andrew Melnick, hereinafter referred to as "Respondent Melnick": Erin K. Koenen, Esq., Carter Ledyard & Milburn, LLP, New York, New York.

### **CASE INFORMATION**

Statement of Claim filed on or about: January 9, 2003.

Claimant Pirani signed the Uniform Submission Agreement: January 9, 2003.

Claimants Steve M. Calderon and Celina M. Calderon signed the Uniform Submission Agreement: January 8, 2003.

Claimant Nicole Y. Calderon signed the Uniform Submission Agreement: December 19, 2002.

Statement of Answer filed by Respondents Merrill Lynch, Cazanans, Vidal and Cook on or about: April 4, 2004.

Statement of Answer and Motion to Dismiss the Statement of Claim filed by Respondent Raj on or about: April 4, 2003.

Statement of Answer and Notice to seek Dismissal filed by Respondent Blodget on or about: April 4, 2003.

Statement of Answer and Motion to Dismiss the Statement of Claim filed by Respondent Melnick on or about: April 4, 2003.

Respondent Merrill Lynch signed the Uniform Submission Agreement: April 8, 2003.

Respondents Cazanans, Vidal, and Cook did not file executed Uniform Submission Agreements.

Respondent Raj signed the Uniform Submission Agreement: March 3, 2003.

Respondent Blodget signed the Uniform Submission Agreement: June 7, 2003.

Respondent Melnick signed the Uniform Submission Agreement: April 4, 2003.

Response to Respondent Raj's Motion to Dismiss filed by Claimants on or about: May 2, 2003.

Response to Respondent Melnick's Motion to Dismiss filed by Claimants on or about: May 2, 2003.

Response to Respondent Blodget's Answer and Notice to seek Dismissal filed by Claimants on or about: May 2, 2003.

### **CASE SUMMARY**

Claimants alleged that Respondents made misrepresentations regarding Merrill Lynch research reports and that Claimants relied on these misrepresentations to their detriment. Additionally, Claimants asserted the following causes of action: violation of Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5 promulgated thereunder; controlling person liability; violations of Sections 517.211(2) and 517.301 of the Florida Securities and Investor Protection Act; fraud; breach of fiduciary duty; and, failure to supervise. The causes of action relate to the purchase in Claimants' accounts of the following technology stocks: Infospace, Internet Capital

Group, Pets.com, Web Van, Verisign, Texas Instruments, Oracle, Intel, Yahoo, Cisco, Broadcom, America Online, Atmel Corp., Amazon, CMGI, EMC Corp., Solectron Corp., Sun Microsystems, Dell, Procter and Gamble, Starwood Hotels, Terra Networks, ICG Communications, Oracle, Psi Net, Ariba, CMGI, I2 Technologies, Lucent Technologies, and Nextel Communications.

Respondents Merrill Lynch, Cazanias, Vidal and Cook denied the allegations made in the Statement of Claim and asserted that they did not make any false or misleading statements to Claimants regarding their Merrill Lynch investments or Merrill Lynch research reports. Further, any losses incurred by Claimants resulted from their own decisions as they were fully apprised of, understood, and knowingly accepted the risks involved in their investments.

Unless specifically admitted in their Answers, Respondents Blodget, Raj, and Melnick denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

### **RELIEF REQUESTED**

Claimants requested compensatory damages in the amount of \$2,410,000.00, interest, costs, an unspecified amount of punitive damages, attorneys' fees pursuant to Section 517 of the Florida Statutes, and any other relief that they may deem just and proper.

Respondents Merrill Lynch, Cazanias, Vidal and Cook requested that the undersigned arbitrators (the "Panel") enter an award dismissing Claimants' claims in their entirety and granting such other and further relief as the undersigned arbitrators (the "Panel") deems just and proper.

Respondent Raj requested that the Statement of Claim be dismissed in its entirety as to him, that he be discharged from this proceeding, that no judgment be entered against him, and that the attorneys' fees and costs of this proceeding, including those incurred in connection with responding to the Statement of Claim, be assessed against Claimants in their entirety.

Respondent Blodget requested that the Statement of Claim be dismissed with prejudice, attorneys' fees and costs, and that all references to the Statement of Claim be expunged from Respondent Blodget's CRD record.

Respondent Melnick requested that the Statement of Claim be dismissed with prejudice, attorneys' fees, and, such other and further relief as may seem just and proper.

### **OTHER ISSUES CONSIDERED AND DECIDED**

Respondents Cazanias, Vidal, and Cook did not file with NASD Dispute Resolution properly executed Uniform Submission Agreements but are required to submit to arbitration pursuant to the NASD Code of Arbitration Procedure (the "Code") and, having answered the Claim, are bound by the determination of the Panel on all issues submitted.

On or about February 9, 2004, the Panel dismissed the Claimants' claims against Respondents Raj and Melnick.

On or about February 12, 2004, Claimants and Respondents Raj and Melnick submitted to NASD Dispute Resolution a Stipulation of Dismissal.

On or about July 7, 2004, the Panel granted Respondent Blodget's motion to dismiss with prejudice.

On or about November 16, 2004, Claimants notified NASD Dispute Resolution that they had voluntarily dismissed their remaining claims with prejudice.

On or about March 23, 2005, Respondents Merrill Lynch, Cazanans, Vidal and Cook submitted to NASD Dispute Resolution a proposed Stipulated Award for review and approval by the Panel.

On or about March 29, 2005, Respondents Merrill Lynch, Cazanans, Vidal and Cook requested that a pre-hearing conference be scheduled regarding the proposed Stipulated Award. On June 22, 2005, the Panel held a pre-hearing conference on Respondents Merrill Lynch, Cazanans, Vidal and Cook's proposed Stipulated Award.

In consideration of Claimants' agreement to dismiss, with prejudice, all claims against Respondents, including but not limited to all claims for attorneys' fees, costs and expenses, Respondents agree that they will not pursue any claims against Claimants for attorneys' fees, costs or expenses incurred in this case. No other or additional consideration has been promised or will be paid or provided to Claimants by Respondents.

The parties have agreed that the Stipulated Award in this matter may be executed in counterpart copies of that a handwritten, signed Stipulated Award may be entered.

#### **AWARD**

After considering the pleadings and the proposed Stipulated Award, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. The Statement of Claim is dismissed with prejudice with respect to Respondents Merrill Lynch, Cazanans, Vidal and Cook. (The Statement of Claim was dismissed with prejudice with respect to Respondents Raj and Melnick by Order of the Panel dated February 9, 2004, and with respect to Respondent Henry Blodget by Order of the Panel dated July 7, 2004.)
2. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondents Cazanans, Vidal and Cook's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notices to Members 99-09 and 99-54, Respondents Cazanans, Vidal and Cook must each obtain confirmation from a court of competent jurisdiction before the NASD CRD will execute the expungement directive.
3. The Panel denied Respondents Blodget's, Raj's and Melnick's requests for expungement.
4. Each party shall bear its respective costs, including attorneys' fees.
5. All other requests for relief, which are not addressed specifically in this Stipulated Award, are 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 = \$ 500.00

#### Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute. Accordingly, Respondent Merrill Lynch is a party and member firm.

Member surcharge = \$ 2,800.00

Pre-hearing process fee = \$ 750.00

Hearing process fee = \$ 5,000.00

Total Member Fees = \$ 8,550.00

#### Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

There were no adjournment fees assessed during these proceedings.

#### Three-Day Cancellation Fees

Fees apply when a hearing on the merits is postponed or settled within three business days before the start of a scheduled hearing session:

There were no three-day cancellation fees assessed during these proceedings.

#### Injunctive Relief Fees

Injunctive relief fees are assessed to each member or associated person who files for a temporary injunction in court. Parties in these cases are also assessed arbitrator travel expenses and costs when an arbitrator is required to travel outside his or her hearing location and additional arbitrator honoraria for the hearing for permanent injunction. These fees, except the injunctive relief surcharge, are assessed equally against each party unless otherwise directed by the Panel.

There were no injunctive relief fees assessed during these proceedings.

#### Forum Fees and Assessments

The Panel has assessed forum fees for each session conducted. A session is any meeting between the parties and the arbitrator(s), including a pre-hearing conference with the arbitrator(s), that lasts four (4) hours or less. Fees associated with these proceedings are:

Seven (7) Pre-hearing sessions with the Panel @ \$ 1,200.00/session = \$ 8,400.00

Pre-hearing conferences: December 18, 2003 1 session  
February 9, 2004 2 sessions  
May 7, 2004 1 session

July 7, 2004	1 session
November 8, 2004	1 session
June 22, 2005	1 session

---

Total Forum Fees	= \$ 8,400.00
------------------	---------------

1. The Panel has assessed \$2,100.00 of the forum fees jointly and severally against the Claimants.
2. The Panel has assessed \$6,300.00 of the forum fees to Respondent Merrill Lynch

**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.

There were no administrative costs incurred during these proceedings.

**Fee Summary**

1. Claimants are jointly and severally liable for:

Initial Filing Fee	= \$ 500.00
<u>Forum Fees</u>	= \$ 2,100.00
Total Fees	= \$ 2,600.00
<u>Less payments</u>	= \$ 2,600.00
Balance Due NASD Dispute Resolution	= \$ 0.00
2. Respondent Merrill Lynch is solely liable for:

Member Fees	= \$ 8,550.00
<u>Forum Fees</u>	= \$ 6,300.00
Total Fees	= \$14,850.00
<u>Less payments</u>	= \$ 8,550.00
Balance Due NASD Dispute Resolution	= \$ 6,300.00

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

**ARBITRATION PANEL**

Patricia Murphy, Esq.	-	Public Arbitrator, Presiding Chairperson
Stanley David Gottsegen, Esq.	-	Public Arbitrator
Robert M. Shubert	-	Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

/s/  
Patricia Murphy, Esq.  
Public Arbitrator, Presiding Chairperson

July 1, 2005  
Signature Date

/s/  
Stanley David Gottsegen, Esq.  
Public Arbitrator

July 1, 2005  
Signature Date

/s/  
Robert M. Shubert  
Non-Public Arbitrator

July 1, 2005  
Signature Date

July 1, 2005  
Date of Service (For NASD Dispute Resolution Office use only)

NASD Dispute Resolution  
Arbitration No. 03-00195  
Stipulated Award Page 7

Concurring Arbitrators' Signatures

  
Patricia Murphy, Esq.  
Public Arbitrator, Presiding Chairperson

7/1/05  
Signature Date

Stanley David Gottsegen, Esq.  
Public Arbitrator

Signature Date

Robert M. Shubert  
Non-Public Arbitrator

Signature Date

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



NASD Dispute Resolution  
Arbitration No. 03-00195  
Stipulated Award Page 7

Concurring Arbitrators' Signatures

\_\_\_\_\_  
Patricia Murphy, Esq.  
Public Arbitrator, Presiding Chairperson

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

  
\_\_\_\_\_  
Stanley David Gottsegen, Esq.  
Public Arbitrator

7/1/05  
\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Robert M. Shubert  
Non-Public Arbitrator

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

\_\_\_\_\_  
Date of Service (For NASD Dispute Resolution Office use only)

NASD Dispute Resolution  
Arbitration No. 03-00195  
Stipulated Award Page 7


Concurring Arbitrators' Signatures

\_\_\_\_\_  
Patricia Murphy, Esq.  
Public Arbitrator, Presiding Chairperson

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

\_\_\_\_\_  
Stanley David Gottsegen, Esq.  
Public Arbitrator

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

  
Robert M. Shubert  
Non-Public Arbitrator

7-1-05  
Signature Date

\_\_\_\_\_  
Date of Service (For NASD Dispute Resolution Office use only)