

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

---

In the Matter of the Arbitration Between:

Name of the Claimant

Jean B. Carlson, Individually and as Trustee  
U/A DTD 11/19/1990 by William H. Carlson

Case Number: 03-04044

Name of the Respondent

Merrill Lynch, Pierce, Fenner & Smith Inc.  
and Rajesh Bhatia

---

**REPRESENTATION OF PARTIES**

Claimant was represented by Howard J. Stein.

Respondents were represented by John J. Kilkenny and Timothy E. Horton of Ungaretti & Harris LLP.

**CASE INFORMATION**

Statement of Claim filed on or about: June 24, 2003.

Statement of Answer filed by Respondents Merrill Lynch, Pierce, Fenner & Smith Inc and Rajesh Bhatia ("Respondents") on or about: August 1, 2003.

**CASE SUMMARY**

Claimant alleged unsuitable trading, Breach of Fiduciary Duty, Failure to Supervise, Respondeat Superior, and Breach of the Illinois Consumer Fraud Act.

Respondent denied the allegations of the claim and asserted the following affirmative defenses: failure to state a claim, ratification, waiver, estoppel, failure to exercise due care, the transactions complained of were properly conducted; Claimant is the sole cause of any damage, and failure to mitigate damages. Respondent further denied that Claimant suffered any damages.

**RELIEF REQUESTED**

Claimant Jean B. Carlson requested:

Compensatory Damages	\$ 590,000.00
Treble Damages	\$1,180,000.00
Interest	unspecified
Attorneys' Fees	unspecified

Other Costs

Other Monetary/Non-Monetary Relief if any:

unspecified  
any relief the panel deems  
just and equitable

Respondent requested:

Attorneys' Fees

Other Costs

Other Monetary/Non-Monetary Relief if any:

unspecified  
unspecified  
denial and dismissal of  
claims

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

Claimant and Respondents reached a settlement of their dispute and Claimant agrees that the claims against Mr. Bhatia were improvidently brought. After consultation with counsel, Claimant has come to realize that Mr. Bhatia did not conduct unsuitable trades and did not breach his duty to her.

### **AWARD**

The undersigned arbitrators, being duly appointed by the NASDR to decide this matter, have made the following determinations:

1. The matter having been settled between the Claimant and Respondent, this case is dismissed with prejudice.
2. All reference to the above captioned arbitration and the settlement thereof shall be expunged from Respondent Bhatia'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, Respondent Holland must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

### **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 that employed the associated person at the time of the events giving rise to the dispute. Accordingly, Respondent Merrill Lynch is assessed the following fees:

Member surcharge	= \$ 2800.00
Pre-hearing process fee	= \$ 750.00
<u>Hearing process fee</u>	<u>= \$ 5000.00</u>
Total	= \$ 8550.00

**Forum Fees and Assessments**

The Panel has assessed forum 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:

One (1) Pre-hearing session with Panel at \$1,200.00	= \$1,200.00
Pre-hearing conference: January 22, 2004 1 session	
Total Forum Fees	= \$1,200.00

1. The Panel has assessed \$400.00 of the forum fees to Claimant.
2. The Panel has assessed \$400.00 of the forum fees to Respondent Merrill Lynch.
3. The Panel has assessed \$400.00 of the forum fees to Respondent Bhatia

Total Forum Fees	= \$1,200.00
------------------	--------------

Pursuant to Rule 10332(f) Code NASD will retain the remainder of any hearing session deposits:  
Claimants = \$ 800.00

**FEE SUMMARY**

1. Claimant is solely liable for:	
Initial Filing Fee	= \$ 500.00
Eight Day Rule Fee	= \$ 800.00
<u>Forum Fees</u>	<u>= \$ 400.00</u>
Total Fees	= \$ 1700.00
<u>Less payments</u>	<u>= \$ 1750.00</u>
Refunded by NASD Dispute Resolution	= \$ 50.00
2. Respondent Merrill Lynch liable for:	
Member Fees	= \$ 8550.00
<u>Forum Fees</u>	<u>= \$ 400.00</u>
Total Fees	= \$ 8950.00
<u>Less payments</u>	<u>= \$ 3550.00</u>
Balance Due NASD Dispute Resolution	= \$ 400.00

3. Respondent Bhatia liable for:

Forum Fees	= \$ 400.00
Total Fees	= \$ 400.00
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 400.00

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

ARBITRATION PANEL

Loren R. Miller, III  
Alan S. Farnell, Esq.  
Scott M. Krantz

Public Arbitrator, Chairperson  
Public Arbitrator  
Non-Public Arbitrator

Concurring Arbitrators' Signatures

\_\_\_\_\_  
Loren R. Miller, III  
Public Arbitrator

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

\_\_\_\_\_  
Alan S. Farnell, Esq.  
Public Arbitrator

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

\_\_\_\_\_  
Scott M. Krantz  
Non-Public Arbitrator

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

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

NASD Dispute Resolution  
 Arbitration No. 03-04044  
 Ward Page 4 of 4

3. Respondent Bhatia liable for:

Forum Fees	= \$ 400.00
Total Fees	= \$ 400.00
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 400.00

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

**ARBITRATION PANEL**

Loren R. Miller, III  
 Alan S. Farnell, Esq.  
 Scott M. Krantz

Public Arbitrator, Chairperson  
 Public Arbitrator  
 Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

\_\_\_\_\_  
 Loren R. Miller, III  
 Public Arbitrator

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

Alan S. Farnell  
 Alan S. Farnell, Esq.  
 Public Arbitrator

2/23/05  
 Signature Date

\_\_\_\_\_  
 Scott M. Krantz  
 Non-Public Arbitrator

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

2/25/05  
 Date of Service (For NASD Dispute Resolution office use only)

NASD Dispute Resolution  
Arbitration No. 03-04044  
Page 4 of 4

3. Respondent Bharia liable for:

Forum Fees	= \$ 400.00
Total Fees	= \$ 400.00
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 400.00

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

**ARBITRATION PANEL**

Loren R. Miller, III  
Alan S. Farnell, Esq.  
Scott M. Krantz

Public Arbitrator, Chairperson  
Public Arbitrator  
Non-Public Arbitrator

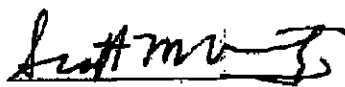
**Concurring Arbitrators' Signatures**

Loren R. Miller, III  
Public Arbitrator

Signature Date

Alan S. Farnell, Esq.  
Public Arbitrator

Signature Date

  
Scott M. Krantz  
Non-Public Arbitrator

February 23, 2005  
Signature Date

2/25/05  
Date of Service (For NASD Dispute Resolution office use only)