

NASD DISPUTE RESOLUTION AWARD
NASD DISPUTE RESOLUTION

CASE: 03-06393

Larry L. and Linda K. Boevers, Claimants v. Merrill Lynch, Pierce, Fenner & Smith, Inc.,
Respondent

ATTORNEYS:

For Claimants Larry L. and Linda K. Boevers (collectively "Claimants") appeared Kathleen P. Toolan, Esq., of the firm Levin, Papantonio, Thomas, Mitchell, Echsner & Proctor, P.A., Pensacola, FL.

For Respondent Merrill Lynch, Pierce, Fenner & Smith, Inc. ("Respondent") appeared Terry R. Weiss, Esq., of the firm Sutherland Asbill & Brennan, LLP, Atlanta, GA.

NATURE OF DISPUTE: Customers vs. Member.

DATE FILED: September 3, 2003.

CASE SUMMARY: Claimants alleged that Respondent provided fraudulent analyst reports, which recommended the purchase of, and set target prices for the common stock of companies without any reasonable factual basis. Claimants further alleged breach of fiduciary duty, fraud, negligence and negligent misrepresentation, and violations of Blue Sky Laws. Claimants maintained that due to Respondent's actions, the account suffered losses. Claimants' claim involved shares of Cisco Systems, Inc., EMC Corp., and Enron.

Claim Data

Claim: \$25,000.00
Punitive: Unspecified
Interest: Unspecified

Attorney Fees: Unspecified
Filing Fees: Unspecified
Other: Unspecified

Award Data

Award: \$25,000.00
Punitive: \$.00
Interest: 7% per annum upon date of
Award execution until payment in
full
Attorney Fees: \$.00
Filing Fees: \$425.00
Other: \$.00

AWARD: The undersigned arbitrator has decided and determined in full and final resolution of the issues submitted for determination as follows: 1) Respondent is liable and shall pay Claimant \$25,000.00 2) Respondent is liable and shall pay Claimant interest at the rate of 7% per annum upon date of award execution until payment in full. 3) All requests for attorney fees are denied. 4) All requests for punitive damages are denied. 5) All other relief requests are denied. 6) NASD Dispute Resolution shall retain the 425.00 filing fee that the Claimants deposited

Page Two
Award 03-06393

previously. 7) Respondents are jointly and severally liable and shall pay Claimants \$425.00 as reimbursement of the filing fee.

OTHER FEES: Pursuant to Rule 10333 of the Code, Respondent has paid to NASD Dispute Resolution the \$425.00 Member Surcharge previously invoiced.

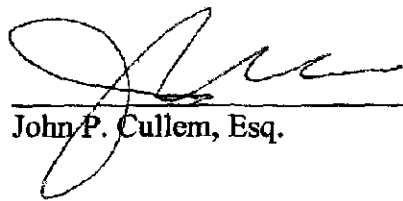
OTHER ISSUES: All discovery requests and motions directed to the same are denied. Respondent's motion to strike all references to the Global Settlement are granted. Respondent's motion to dismiss and motion for a more definite statement are denied. Respondent's motion for evidentiary final hearing is denied. The Dinallo Affidavit is admitted and will be give due weight as it is not on personal knowledge; and any and all other motions not addressed above are denied.

Page Three
Award 03-06393

John P. Cullem, Esq. - Sole Public Arbitrator

AFFIRMATION

I, John P. Cullem, Esq., do hereby affirm, upon my oath as arbitrator that I am the individual described herein who executed this instrument, which is my oath and award.



John P. Cullem, Esq.

11/17/2004
Signature Date

November 24, 2004
Date of Service (For NASD-DR office use only)