

NASD DISPUTE RESOLUTION AWARD
NASD DISPUTE RESOLUTION

CASE: 04-00004

Luisa Lozano and Pierre Antoine Berniard, Claimants vs. Merrill Lynch Pierce Fenner & Smith, Inc., Respondent.

ATTORNEYS:

For Claimants Luisa Lozano & Pierre Antoine Berniard, ("Claimants"), appeared Wm. Jemison Mims, Jr., Esq., of the firm Levin, Papantonio, Thomas, Mitchell, Echsner & Proctor, P.A., Pensacola, FL.

For Respondent, Merrill, Lynch, Pierce, Fenner & Smith, Inc. ("Respondent"), appeared James L. Mitchell, Esq., of the firm Maynard, Cooper & Gale, P.C. Birmingham, AL.

NATURE OF DISPUTE: Customers v. Member.

DATE FILED: January 2, 2004.

CASE SUMMARY: Claimants alleged that Respondent issued fraudulent analyst reports which recommended the purchase of, and set target prices for common stock of companies without any reasonable factual basis. Claimants further alleged that Respondent failed to disclose material conflicts of interest and breached its fiduciary duty to the Claimants. Claimants' claims involved Cisco Systems Inc. and JDS Uniphase Corp.

Claim Data

Claim: \$17,054.33
Punitive: Unspecified
Interest: Unspecified
Attorney Fees: Unspecified
Filing Fees: Unspecified
Other: Unspecified

Award Data

Award: \$.00
Punitive: \$.00
Interest: \$.00
Attorney Fees: \$.00
Filing Fees: \$212.50
Other: \$.00

AWARD: The undersigned arbitrator has decided and determined in full and final resolution of the issues submitted for determination as follows: 1) The claims of Claimants are dismissed in their entirety. 2) All requests for attorney fees are denied. 3) All requests for punitive damages are denied. 4) All request for interest are denied. 5) All other relief requests are denied. 6) The \$425.00 filing fee previously deposited with NASD Dispute Resolution by the Claimants, shall be retained by NASD Dispute Resolution. 7) Respondent shall pay Claimant \$212.50 as reimbursement of one half 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.

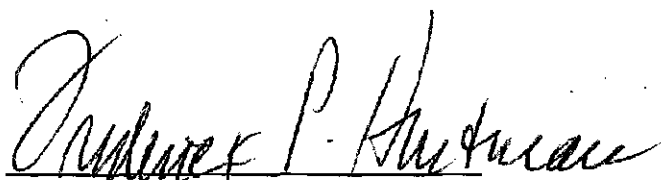
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Award 04-00004

ARBITRATOR

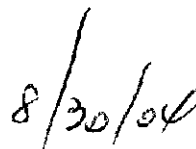
Frederick P. Hartman, CPA - Sole Public Arbitrator

AFFIRMATION

I, Frederick P. Hartman, CPA, 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.



Frederick P. Hartman, CPA



Signature Date

September 15, 2004

Date of Service (For NASD-DR office use only)