

NASD DISPUTE RESOLUTION AWARD
NASD DISPUTE RESOLUTION
CASE: 04-00656

Lewis F. Jarrett, II, Claimant v. Merrill Lynch, Pierce, Fenner & Smith, Inc., Respondent

ATTORNEYS:

Claimant, Lewis F. Jarrett, II, ("Claimant"), appeared Wm. Jemison Mims, Jr., Esq., of the firm Levin, Papantonio, Thomas, Mitchell, Echsner & Proctor, P.A., Pensacola, FL.

Respondent, Merrill Lynch, Pierce, Fenner & Smith, Inc., ("Respondent"), appeared A. Inge Selden, III, Esq., of the firm Maynard, Cooper & Gale, P.C., Birmingham, AL.

NATURE OF DISPUTE: Customer v. Member.

DATE FILED: February 2, 2004.

CASE SUMMARY: Claimant alleged that Respondent breached its fiduciary duty, was negligent, breached its contract, and misrepresented and omitted material fact and provided fraudulent analyst reports in connection with the offer and sale of common stock including, but not limited to EMC Corporation Mass; Cisco Systems Inc., Enron Corp Oregon NPV, AOL Time Warner, Ebay Inc., Tyco Intl Ltd New, Tyco Intl 6.75%Feb 15 11, AOL Time Warner 6.75%, JDS Uniphase, America Online, and Enron Corp Oregonstock. Claimant maintained that due to Respondent's actions, the account suffered financial losses.

ARBITRATOR'S REPORT: Claimant failed to demonstrate the burden of proof in bridging the causal relationship to the facts presented.

Claim Data

Claim: \$11,560.97
Punitive: Unspecified
Interest: Unspecified
Filing Fees: Unspecified
Attorney Fees: Unspecified
Other: Unspecified

Award Data

Award: \$.00
Punitive: \$.00
Interest: \$.00
Filing Fees: \$.00
Attorney Fees: \$.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) The claims of the Claimant are dismissed in their entirety. 2) All requests for punitive damages are denied. 3) All requests for interest are denied. 4) All requests for attorney fees are denied. 5) All other relief requests are denied. 6) NASD Dispute Resolution shall retain the \$425.00 filing fee that the Claimant deposited previously.

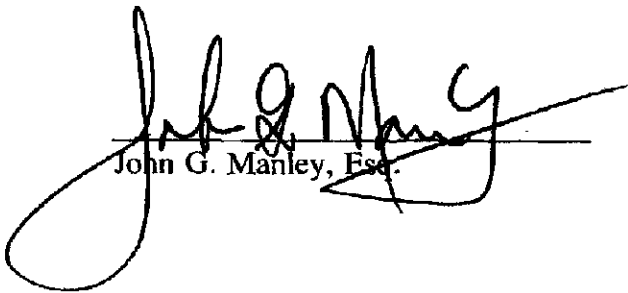
OTHER FEES: Pursuant to Rule 10333 of the Code, Respondent has paid to NASD Dispute Resolution the \$425.00 Member Surcharge previously invoiced.

ARBITRATOR

John G. Manley, Esq. - Sole Public Arbitrator

AFFIRMATION

I, John G. Manley, 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 G. Manley, Esq.

9/6/04

Signature Date

September 17, 2004

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