

NASD DISPUTE RESOLUTION AWARD
NASD DISPUTE RESOLUTION

CASE: 04-01492

Kurt Silber and Irene Gladys Silber, Claimants v. Merrill Lynch, Pierce, Fenner & Smith, Inc.,
Respondent

ATTORNEYS:

For Claimants Kurt Silber and Irene Gladys Silber (collectively "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 Edward A. "Ted" Hosp, Esq., of the firm Maynard Cooper & Gale, P.C., Montgomery, AL.

NATURE OF DISPUTE: Customers vs. Member.

DATE FILED: March 4, 2004.

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 that Respondent breached its fiduciary duty and breached its contract, committed fraud, negligence and negligent misrepresentation, and violated blue sky laws. Claimants' claim involved common stocks including, but not limited to, Tyco International Limited, Merrill Lynch Global Technology Fund, America Online Time Warner, Cisco Systems Incorporated, Exodus Communications, and JDS Uniphase.

Claim Data

Claim: \$25,000.00
Interest: Unspecified
Attorney Fees: \$.00
Filing Fees: \$.00
Other: \$.00

Award Data

Award: \$.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 interest are denied. 4) All other relief requests are denied. 5) NASD Dispute Resolution shall retain the \$425.00 filing fee that the claimant deposited previously. 6) Respondent is liable and shall pay Claimants \$212.50 as reimbursement of one-half of the filing fee.

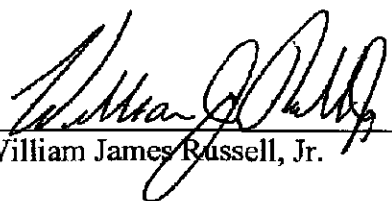
OTHER FEES: Pursuant to Rule 10333 of the Code, Respondent has paid to NASD Dispute Resolution the \$425.00 Member Surcharge previously invoiced.

Page Two
Award 04-01492

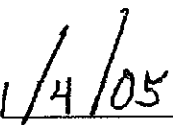
William James Russell, Jr. - Sole Public Arbitrator

AFFIRMATION

I, William James Russell, Jr., 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.



William James Russell, Jr.



Signature Date

January 18, 2005
Date of Service (For NASD-DR office use only)