

**NASD DISPUTE RESOLUTION AWARD**  
**NASD DISPUTE RESOLUTION**

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**CASE:** 04-01499

John J. Ryan, Claimant v. Merrill Lynch, Pierce, Fenner & Smith, Inc., Respondent

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**ATTORNEYS:**

For Claimant John J. Ryan ("Claimant") 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 A. Ingo Selden, Esq., of the firm Maynard, Cooper & Gale, P.C., Birmingham, AL.

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**NATURE OF DISPUTE:** Customer vs. Member.

**DATE FILED:** March 4, 2004.

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**CASE SUMMARY:** Claimant's claim arises out of Respondent's fraudulent analyst reports, which recommended the purchase price of, and set target prices for the common stock of companies without any reasonable factual basis. Claimant alleged that Respondent breached its fiduciary duty, breached its contract, committed fraud, negligently, intentionally, and/or recklessly misrepresented and/or omitted material facts, and violated Blue Sky Laws. Claimant's claim involved shares of Infospace Incorporated and Tyco International.

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**Claim Data**

Claim: \$7,263.00  
Punitive: Unspecified  
Interest: Unspecified  
Attorney Fees: \$00  
Filing Fees: \$00  
Other: \$00

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**Award Data**

Award: \$00  
Punitive: \$00  
Interest: \$00  
Attorney Fees: \$00  
Filing Fees: \$162.50  
Other: \$00

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**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 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 \$325.00 filing fee that the Claimant deposited previously. 6) Respondent is liable and shall pay Claimant \$162.50 as reimbursement of one-half of the filing fee.

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**OTHER FEES:** Pursuant to Rule 10333 of the Code, respondent has paid to NASD Dispute Resolution the \$325.00 Member Surcharge previously invoiced.

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Award 04-01499

Robert P. Porter

, Sole Public Arbitrator

AFFIRMATION

I, Robert P. Porter, 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.

  
Robert P. Porter

8 September 2004  
Signature Date

September 15, 2004  
Date of Service (For NASD-DR office use only)