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**Stipulated Award**  
**NASD Dispute Resolution**

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In the Matter of the Arbitration Between:

Names of the Claimants

Cathy J. Huffman  
Jerry Lee Huffman, Sr.

Case Number: 04-01654

Names of the Respondents

Merrill Lynch, Pierce, Fenner & Smith, Inc.  
Randall Joe Snipes

Hearing Site: Atlanta, Georgia

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Nature of the Dispute: Customer vs. Member and Associated Person.

**REPRESENTATION OF PARTIES**

For Cathy J. Huffman and Jerry Lee Huffman, Sr., hereinafter collectively referred to as "Claimants": Daniel I. McIntyre, Esq. and Robert M. Sommers, Esq., Shapiro Fussell Wedge Smotherman Martin & Price LLP, Atlanta, Georgia.

For Merrill Lynch, Pierce, Fenner & Smith, Inc. ("Merrill") and Randall Joe Snipes ("Snipes"), hereinafter collectively referred to as "Respondents": Terry R. Weiss, Esq. and Scott N. Sherman, Esq., Sutherland, Asbill & Brennan, LLP, Atlanta, Georgia.

**CASE INFORMATION**

Statement of Claim filed on or about: March 10, 2004.

Claimants signed, but did not date, the Uniform Submission Agreement.

Statement of Answer filed by Respondents on or about: June 28, 2004.

Respondent Merrill signed the Uniform Submission Agreement: June 28, 2004.

Respondent Snipes signed the Uniform Submission Agreement: June 24, 2004.

**CASE SUMMARY**

Claimants asserted the following causes of action: making unsuitable investments; unauthorized trading; negligence; failure to supervise; and, breach of fiduciary duty. The causes of action relate to allegations that Respondents made unsuitable recommendations in Claimants' account in growth-oriented mutual funds and unit investment trusts including, but not limited to, Telecom Holders, Internet Infrastructure, Internet Architecture, ML Internet Strategies, Delaware Select Growth, Munder Future Technology, Broadband Holders and Van Kampen Birinyi Eq.

Respondents denied all allegations of wrongdoing and asserted various defenses. Respondents contended that all trades were appropriate and suitable. In addition, Respondents asserted that Claimants sought growth-oriented investments in their account in order to obtain the return on their investments they requested.

### **RELIEF REQUESTED**

Claimants requested compensatory damages in the amount of \$47,513.00, plus interest at six (6) percent per annum, disgorgement of commissions and reasonable attorneys' fees pursuant to O.C.G.A. Section 13-6-11.

Respondents requested an award rejecting Claimants' Statement of Claim in its entirety and ordering that all costs of the arbitration be borne by Claimants.

### **OTHER ISSUES CONSIDERED AND DECIDED**

On or about January 14, 2005, Claimants notified NASD Dispute Resolution that this matter had been settled.

On or about January 26, 2005, the parties submitted a proposed Stipulated Award with a request that the Arbitrator enter the Stipulated Award expunging this matter from Respondent Snipes' NASD Central Registration Depository ("CRD") records.

### **AWARD**

After considering the pleadings, the proposed Stipulated Award and the record in this matter, the Arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

The Arbitrator recommends the expungement of all references to the above-captioned arbitration from Respondent Snipes' registration records maintained by the NASD CRD, with the understanding that pursuant to NASD Notices to Members 99-09 and 99-54, Respondent Snipes must obtain confirmation from a court of competent jurisdiction before the NASD CRD will execute the expungement directive.

The parties shall each bear their respective costs, including attorneys' fees.

Any and all relief not specifically addressed herein, including Claimants' request for punitive damages, is denied in its entirety.

### **FEES**

Pursuant to the NASD Code of Arbitration Procedure (the "Code"), the following fees are assessed:

#### **Filing Fees**

NASD Dispute Resolution will retain or collect the non-refundable filing fees for each claim:

Initial claim filing fee	= \$ 175.00
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#### **Member Fees**

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm that employed the associated person at the time of the events giving rise to the

dispute. In this matter, the member firm Merrill Lynch, Pierce, Fenner & Smith, Inc. is a party.

Member surcharge = \$ 875.00

Pre-hearing process fee = \$ 750.00

### **Adjournment Fees**

Adjournments granted during these proceedings for which fees were assessed:

No requests for adjournments were filed in this matter.

### **Three-Day Cancellation Fees**

Fees apply when a hearing on the merits is postponed or settled within three business days before the start of a scheduled hearing session:

No three-day cancellation fees were incurred in this matter.

### **Injunctive Relief Fees**

Injunctive relief fees are assessed to each member or associated person who files for a temporary injunction in court. Parties in these cases are also assessed arbitrator travel expenses and costs when an arbitrator is required to travel outside his or her hearing location and additional arbitrator honoraria for the hearing for permanent injunction. These fees, except the injunctive relief surcharge, are assessed equally against each party unless otherwise directed by the Panel.

No injunctive relief fees were incurred in this matter.

### **Forum Fees and Assessments**

The Arbitrator has assessed forum fees for each session conducted. A session is any meeting between the parties and the arbitrator, including a pre-hearing conference with the arbitrator, that lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) Pre-hearing session with a single arbitrator @ \$450.00 = \$ 450.00

Pre-hearing conference: January 17, 2005 1 session

Total Forum Fees = \$ 450.00

The Arbitrator has assessed \$225.00 of the forum fees jointly and severally to Claimants.

The Arbitrator has assessed \$225.00 of the forum fees jointly and severally to Respondents.

### **Administrative Costs**

Administrative costs are expenses incurred due to a request by a party for special services beyond the normal administrative services. These include, but are not limited to: additional copies of arbitrator awards; copies of audio transcripts; retrieval of documents from archives; interpreters; and, security.

No administrative costs were incurred in this matter.

### **Fee Summary**

Claimants are jointly and severally liable for:

Initial Filing Fee	= \$ 175.00
Forum Fees	= \$ 225.00
Total Fees	= \$ 400.00
Less payments	= \$ 400.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondent Merrill is solely liable for:

Member Fees	= \$ 1,625.00
Total Fees	= \$ 1,625.00
Less payments	= \$ 1,625.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondents are jointly and severally liable for:

Forum Fees	= \$ 225.00
Total Fees	= \$ 225.00
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 225.00

All balances are payable to NASD Dispute Resolution and are due upon receipt pursuant to Rule 10330(g) of the Code.

**ARBITRATOR**

Helen E. Huyler, Esq.                      -                      Public Arbitrator, Presiding Chairperson

**Arbitrator's Signature**

/s/

02/07/05

Helen E. Huyler, Esq.  
Public Arbitrator, Presiding Chairperson

Signature Date

02/07/05

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Date of Service (For NASD Dispute Resolution office use only)

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Respondents are jointly and severally liable for:

Forum Fees	= \$ 225.00
Total Fees	= \$ 225.00
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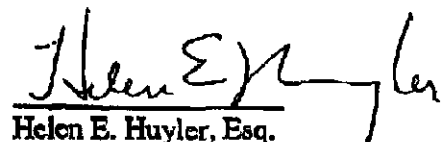
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ARBITRATOR

Helen E. Huyler, Esq.

- Public Arbitrator, Presiding Chairperson

Arbitrator's Signature



Helen E. Huyler, Esq.  
Public Arbitrator, Presiding Chairperson

2-7-05  
Signature Date

Date of Service (For NASD Dispute Resolution office use only)