

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

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CASE: 04-01898

Ronald F. Crow and Janice T. Crow (Claimants) v. Merrill Lynch, Pierce, Fenner & Smith, Inc.  
(Respondent)

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**ATTORNEYS:**

For Claimants Ronald F. Crow and Janice T. Crow (collectively "Claimants") appeared Kathleen P. Toolan, Esq. and Wm. Jemison Mims, Jr., Esq., Levin, Papantonio, Thomas, Mitchell, Echsner & Proctor, P.A., Pensacola, FL.

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

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

**DATE FILED:** March 19, 2004.

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**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 breach of fiduciary duty, fraud, negligent misrepresentation, negligence, violation of Blue Sky laws, and breach of contract. Claimants maintained that due to Respondent's actions, their accounts suffered losses. Claimants' claims involved shares of Merrill Lynch Global Technology Fund Class B and Merrill Lynch Global Technology Fund Class D.

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**Claim Data**

Claim: \$18,669.15  
Punitive: Unspecified  
Interest: Unspecified  
Attorney Fees: Unspecified  
Filing Fees: Unspecified  
Other: Unspecified

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**Award Data**

Award: \$0.00  
Punitive: \$0.00  
Interest: \$0.00  
Attorney Fees: \$0.00  
Filing Fees: \$0.00  
Other: \$0.00

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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 \$425.00 filing fee that the Claimants deposited previously.

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**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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**OTHER ISSUES:** On or about February 18, 2005, Respondent made a motion to dismiss due to Claimants' failure to comply with the arbitrator's discovery order. On or about March 17, 2005, Claimants submitted their response to the motion. After due consideration, the arbitrator

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determined that due to Claimants' inability to participate in and comply with discovery requests, the matter is dismissed for want of prosecution.

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Charles Isaac Brooks, J.D. - Sole Public Arbitrator

AFFIRMATION

I, Charles Isaac Brooks, J.D., 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.

Charles Brooks  
Charles Isaac Brooks, J.D.

7.5.05  
Signature Date

July 5, 2005  
Date of Service (For NASD-DR office use only)