

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

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CASE: 04-02137

Frederick Weiner and Maria Weiner, Claimants v. Merrill Lynch, Pierce, Fenner & Smith, Inc.,  
Respondent

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**ATTORNEYS:**

For Claimants Frederick Weiner and Maria Weiner (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 Kathryn R. Eldridge, Esq., of the firm Maynard, Cooper & Gale, P.C., Birmingham, AL.

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

**DATE FILED:** March 29, 2004.

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**CASE SUMMARY:** Claimants alleged that Respondent placed them in investments that were unsuitable for their investment objectives. Claimants further alleged breach of fiduciary duty, violation of Blue Sky Laws, negligence, negligent supervision, negligent misrepresentation, fraud, and breach of contract. Claimants' maintained that due to Respondent's actions, their accounts suffered losses. Claimants' claim involved various mutual funds.

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**Claim Data**

Claim: \$13,629.84  
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: \$212.50  
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 Claimants 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. 7) Respondent is liable and shall pay Claimants \$212.50 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 \$425.00 Member Surcharge previously invoiced.

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Award 04-02137

Howard Roitman, Esq.

*Indecisive*  
Sole ~~Public Arbitrator~~

AFFIRMATION

I, Howard Roitman, 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.



Howard Roitman, Esq.

*3/24/05*

Signature Date

April 20, 2005  
Date of Service (For NASD-DR office use only)