

**NASD DISPUTE RESOLUTION AWARD**

**NASD DISPUTE RESOLUTION**

CASE: 04-02251

Fred W. Rhemrev, Claimant v. Merrill Lynch, Pierce, Fenner & Smith, Inc., Respondent.

**ATTORNEYS:**

For Claimant, Fred W. Rhemrev, ("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. Inge Selden, III, Esq., of the firm Maynard, Cooper & Gale, P.C., Birmingham, AL.

DATE FILED: April 1, 2004

NATURE OF DISPUTE: Customer v. Member

CASE SUMMARY: Claimant 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. Claimant further alleged that Respondent breached its fiduciary duty, negligently, intentionally and/or recklessly misrepresented and/or omitted material facts that were necessary to make informed investment decisions in the Claimant's portfolio, and violated Blue Sky Laws. Claimant's claim involved America Online, EMC Corporation Mass, ML Focus Twenty and Tyco stocks. Claimant maintained that as a result of Respondent's actions, his account suffered financial losses.

ARBITRATOR'S REPORT: "This case is dismissed for lack of specificity and failure to provide any evidence of personal harm to Claimant. In addition, at least a portion of the claim does not relate (so far as one can tell) to the Claimant. In addition, portions of the claim may be outside the statute of limitations (again, so far as one can tell)."

**Claim Data**

Claim: \$23,231.48

Punitive: Unspecified

Interest: Unspecified

Attorney Fees: Unspecified

Costs: Unspecified

Other: Unspecified

**Award Data**

Award: \$.00

Punitive: \$.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 the 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 Claimant deposited previously. 7) Respondent is liable and shall pay to the Claimant \$212.50 as reimbursement of one-half of the filing fees.

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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**ARBITRATOR**

Jo Mills Garceau - Sole Public Arbitrator

**AFFIRMATION**

I, Jo Mills Garceau, 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.

  
Jo Mills Garceau

9-30-04  
(Signature Date)

October 12, 2004  
Date of Service (For NASD-DR office use only)