

NASD DISPUTE RESOLUTION AWARD  
NASD DISPUTE RESOLUTION

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CASE: 04-02443

Deena Mae Leep and Kenneth H. Giove JTWROS, Claimants v. Merrill Lynch, Pierce, Fenner & Smith, Inc., Respondent

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ATTORNEYS:

For Claimants Deena Mae Leep and Kenneth H. Giove JTWROS (collectively "Claimants") appeared Adam M. Fetterman, Esq., of the firm Fetterman & Associates, P.A., North Palm Beach, 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.

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NATURE OF DISPUTE: Customers vs. Member.

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DATE FILED: April 7, 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 and misrepresented and omitted material facts regarding conflicts of interest. Claimants further alleged that Respondent breached its fiduciary duty, breached its contract, committed fraud, negligence, and violated Blue Sky Laws. Claimants maintained that due to Respondent's actions, their account suffered losses. Claimants' claim involved shares of America On Line and Merrill Lynch Global Technology Fund stocks.

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Claim Data

Claim: \$13,260.00  
Punitive: Unspecified  
Interest: Unspecified  
Attorney Fees: Unspecified  
Filing Fees: Unspecified  
Other: Unspecified

Award Data

Award: \$.00  
Punitive: \$.00  
Interest: \$.00  
Attorney Fees: \$.00  
Filing Fees: \$212.50  
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 Claimants are dismissed in their entirety. 2) All requests for interest are denied. 3) All requests attorney fees are denied. 4) All requests for punitive damages 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.

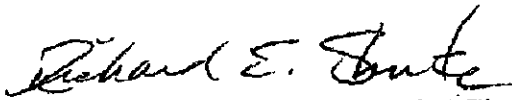
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**ARBITRATOR**

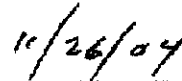
Richard E. Shute - Sole Public Arbitrator

**AFFIRMATION**

I, Richard E. Shute, 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.



Richard E. Shute



Signature Date

December 1, 2004  
Date of Service (For NASD-DR office use only)