

NASD DISPUTE RESOLUTION AWARD
NASD DISPUTE RESOLUTION

CASE: 04-02446

James Pusateri and Debbie L. Pusateri, Claimants v. Merrill Lynch, Pierce, Fenner & Smith, Inc.,
Respondent

ATTORNEYS:

For Claimants James Pusateri and Debbie L. Pusateri (collectively "Claimants") appeared
Frederick J. Sudekum, III, Esq., of the firm Sudekum, Cassidy & Shulruff, CHTD., Chicago, IL.

For Respondent Merrill Lynch, Pierce, Fenner & Smith, Inc. ("Respondent") appeared J.
Michael Ellis, Esq., of the firm Jenkins & Gilchrist, P.C., Dallas, TX.

NATURE OF DISPUTE: Customers vs. Member.

DATE FILED: April 7, 2004.

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' claim involved shares of InfoSpace, JDS Uniphase, and Tyco Intl Ltd.

Claim Data

Claim: \$7,521.62
Punitive: Unspecified
Interest: Unspecified
Attorney Fees: Unspecified
Filing Fees: Unspecified
Other: Unspecified

Award Data

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

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 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 \$325.00 filing fee that the Claimants deposited
previously.

OTHER ISSUES: The Arbitrator in the above-entitled action reviewed the Claimants' Statement
of Claim, the Respondent's Statement of Answer, the Respondent's Motion to Dismiss and
Motion to Strike, Respondent's Renewed Motion to Dismiss and Hearing Submission, and the
Claimants' Response to the Defendant's Renewed Motion to Dismiss and Motion to Strike.
After considering all aspects of these Motions, the Arbitrator ruled that the Respondent's Motion
to Dismiss is allowed and the Respondent's Motion to Strike is allowed.

OTHER FEES: Pursuant to Rule 10333 of the Code, Respondent has paid to NASD Dispute
Resolution the \$325.00 Member Surcharge previously invoiced.

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ARBITRATOR

James Michael Bailey - Sole Public Arbitrator

AFFIRMATION

I, James Michael Bailey, 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.


James Michael Bailey

3/14/05
Signature Date

March 21, 2005

Date of Service (For NASD-DR office use only)