

NASD DISPUTE RESOLUTION AWARD
NASD DISPUTE RESOLUTION

CASE: 04-02605

Francis C. Mangan and Marie Mangan, Claimants v. Merrill Lynch, Pierce, Fenner & Smith, Inc., Respondent

ATTORNEYS:

For Claimants Francis C. Mangan and Marie Mangan (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 Melinda J. Lucas, Esq., of the firm Maynard, Cooper & Gale, P.C., Birmingham, AL.

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, and violation of Blue Sky laws. Claimants maintained that due to Respondent's actions, Claimants' account suffered losses. Claimants' claim involved shares of EMC Corp., B2B Internet Holders Trust, and America Online.

Claim Data

Claim: \$22,500.00
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: \$212.50
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 \$425.00 filing fee that the Claimants deposited previously. 7) Respondent is liable and shall pay Claimant \$212.50 as reimbursement of one-half of the filing fee.

OTHER FEES: Pursuant to Rule 10333 of the Code, Respondent has paid to NASD Dispute Resolution the \$425.00 Member Surcharge previously invoiced.

Page Two
Award 04-02605

ARBITRATOR
Fred S. Pieroni - Sole Public Arbitrator

AFFIRMATION

I, Fred S. Pieroni, 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.

Fred S. Pieroni
Fred S. Pieroni

2/14/05
Signature Date

February 17, 2005
Date of Service (For NASD-DR office use only)