

*Awards*

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

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CASE: 04-08637

Hershel and Phyllis Houk (Claimants) v. Merrill Lynch, Pierce, Fenner & Smith, Inc.  
(Respondent)

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**ATTORNEYS:**

For Claimants Hershel and Phyllis Houk (collectively "Claimants") appeared Debra Brewer Hayes, Esq., of the firm Woska & Hayes, LLP, Kingwood, TX.

For Respondent Merrill Lynch, Pierce, Fenner & Smith, Inc. ("Respondent") appeared Angela A. Turiano, Esq., in-house counsel, Merrill Lynch, Pierce, Fenner & Smith, Inc., New York, NY.

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

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**DATE FILED:** December 23, 2004.

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**CASE SUMMARY:** Claimants alleged that Respondent was negligent, made misrepresentations, and provided unsuitable investment recommendations which resulted in losses in Claimants' accounts. Claimants further alleged control person liability, breach of fiduciary duty, breach of contract, violation of the Know Your Customer Rule, unsuitability, failure to diversify, over-concentration, failure to supervise, violation of securities laws, and failure to hedge. Claimants' claims involved unspecified common stocks.

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**ARBITRATOR'S REPORT:** Claimants had experience in trading. Claimants requested moderate risk. The allegations made in the claim are unsupported by evidence and a detailed explanation of the actual loss was not provided.

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**Claim Data**

Claim: \$25,000.00  
Punitive: Unspecified  
Attorney Fees: Unspecified  
Filing Fees: Unspecified

**Award Data**

Award: \$0.00  
Punitive: \$0.00  
Attorney Fees: \$0.00  
Filing Fees: \$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 attorney fees are denied. 4) All other relief requests are denied. 5) NASD Dispute Resolution shall retain the \$425.00 filing fee that the claimant deposited previously.

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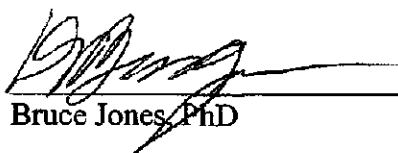
**OTHER FEES:** Pursuant to Rule 10333 of the Code, Respondent has paid to NASD Dispute Resolution the \$425.00 Member Surcharge previously invoiced.

ARBITRATOR

Bruce Jones, PhD - Sole Public Arbitrator

AFFIRMATION

I, Bruce Jones, PhD, 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.

  
\_\_\_\_\_  
Bruce Jones, PhD

5-13-05  
\_\_\_\_\_  
Signature Date

June 15, 2005  
\_\_\_\_\_  
Date of Service (For NASD-DR office use only)