

**Arbitration Decision Number: 2004-015401**

**New York Stock Exchange**

---

**In the matter of Arbitration Between:**

Marshall Rushing and Patti Rushing vs. Merrill Lynch Pierce Fenner and Smith, Inc.

---

**Attorneys:**

**For Claimant(s):**

Milton Fried - Kingwood, TX

**For Respondent(s):**

Peter S Fruin - Montgomery, AL

---

**Date Filed:** 04/19/2004

**First Scheduled:** 04/19/2005

**Decided:** 05/1

---

**Case Summary:** Customer Claimants allege unsuitability, overconcentration, failure to diversify, failure to supervise, breach of fiduciary duty, breach of contract, violation of NYSE and NASD rules and of Federal and Alabama state securities laws, concerning investments in equity securities.

---

**Product:** Equity

**Market:** NASD

---

**Claim Data**

	<b>Claim</b>
<b>Claim:</b>	\$600,000.00
<b>Punitive:</b>	UNSPECIFIED
<b>Atty Fees:</b>	UNSPECIFIED
<b>Deposit:</b>	\$1,000.00

---

**Award Data**

	<b>Award</b>
<b>Award:</b>	\$40,000.00
<b>Punitive:</b>	\$0.00
<b>Atty Fees:</b>	\$0.00
<b>Costs:</b>	\$0.00

**Forum Fees:** \$7,000.00

---

**Case:** Marshall Rushing and Patti Rushing vs. Merrill Lynch Pierce Fenner and Smith, Inc.

**Docket:** 2004-015401

---

**Decision:** The undersigned arbitrator(s) have decided and determined that in full and final settlement between the parties that:

That Respondent shall pay the Claimants \$40,000.00 as an award on the claim; that NYSE forum be shared equally by the parties; that the parties bear their own costs and attorney fees.

---

**Remarks:**

---

The undersigned arbitrators hereby affirm that they have executed this instrument which i

**Arbitrators: (D=Dissents)**

Donald Milo Helton  
Glenn A. Delk  
William Zachary,

**Signatures:**

**City:** Birmingham

**State:** AL

**Date:** 05/12/2005

**Docket#:** 2004-015

---

**Sessions:** 7

**Hearing Dates:**

04/27/2005(2)

04/28/2005(2)

04/29/2005(3)