LAWSUITS

Merrill Lynch to pay couple $1M

A Miami-Dade couple won a $1 million arbitration award on their claim that they lost money in investments because Merrill Lynch's stock research was tainted.

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A Miami-Dade couple won a $1 million award against Merrill Lynch on their claim that the nation's largest retail brokerage hid conflicts of interest from its clients.

Gary Alan Friedman, a medical malpractice and personal injury attorney, and wife Lisa Friedman argued that Merrill issued largely favorable research reports but did not tell customers that its research analysts were also trying to build Merrill's investment banking business.

"The fact is, this was never disclosed to the public. Gary would not have done business with Merrill Lynch or at the very least, not relied on its research or looked at it with a jaundiced eyed," said Robert Wayne Pearce, their attorney.

An NASD panel said Merrill Lynch was guilty of intentional misconduct.

The securities industry has faced extra scrutiny since 2002, when New York Attorney General Eliott Spitzer discovered that Merrill analyst Henry Blodget issued positive recommendations on stocks based on whether those firms were investment banking clients.

The scandal led the next year to a $1.4 billion global settlement among Wall Street firms, which promised to refrain from allowing conflicts of interest to influence their research.

The firms have since established greater disclosure and more separation between investment banking and investment management.

Merrill said the Friedman's stock market losses, which Pearce said amounted to $4 million, were not its fault.

"There were no facts presented

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in this case to support the panel's results," Merrill Lynch spokesman Mark Herr said in a statement.

"Many of [their losses] came in blue chip stocks [that] were caused by the same thing that caused millions of other investors to lose money between 2000 and 2002: The market plunged," Herr continued.

In the Friedman case, a National Association of Securities Dealers arbitration panel ruled that Merrill should pay $300,000 in punitive damages and $730,909 in compensatory damages.

Rick Ryder, publisher of the industry journal Securities Arbitration Commentator, told The Herald that the punitive damage award was the largest "we have seen in a research analyst case."

NASD PANEL

The NASD panel said Merrill was guilty of intentional misconduct because many of the companies for which it issued favorable research reports were "in reality, overvalued by [Merrill's] rating system."

Starting in 1984, the Friedmans invested through Gary's childhood friend Keith Simmons, a Merrill Lynch broker who worked in The Falls office.

Simmons gave them recommendations and eventually began providing them with Merrill's research directly, the couple claimed.

Dissatisfied with the results, the Friedmans transferred their account to another part of Merrill Lynch, the Tendler Group, located in the Coral Gables office, in the spring of 1999.

The Friedmans closed their account at Merrill after the Spitzer investigation became public.

Merrill has faced a raft of lawsuits related to its research, but it has prevailed, the firm said, in an overwhelming majority.

The Friedman case may help others who have filed claims based on Wall Street research, Ryder said.

STATISTICS

"The statistics in these cases haven't been encouraging," Ryder said. Ryder says investors have been winning around 20 percent of these cases, compared to 50 to 60 percent of arbitrations for other issues.

"This decision is the candle in the dark for those who have claims and need to decide whether they should settle for a nominal amount or proceed."

Merrill has not decided whether to appeal the award, Herr said.