Merrill Ordered to Pay 2 Clients Over Analyst Conflicts on Stocks

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NEW YORK—Bucking a spate of previous rulings favorable to the securities industry, arbitrators ordered Merrill Lynch & Co. to pay a Florida couple more than $1 million for failing to disclose that its analysts had conflicts of interest in recommending stocks.

A National Association of Securities Dealers arbitration panel ruled last month that Merrill analysts "were guilty of intentional misconduct" in using a rating system that overvalued stocks they were covering. It ordered Merrill to pay about $731,000 in compensatory damages and $300,000 in punitive damages to Gary Friedman, a medical-malpractice lawyer in Coral Gables, Fla., and his wife.

The case is one of the first in which an investor won punitive damages against a Wall Street firm for conflicted stock research. It also is significant because Mr. Friedman relied on Merrill analysts to buy or hold 39 stocks that weren't involved in a $1.5 billion research settlement that Merrill and 11 other Wall Street companies made in 2003 and 2004, said the Friedmans' lawyer, Robert W. Pearce. He said Merrill did investment-banking work for about two-thirds of the companies in his client's portfolio at Merrill.

New York Attorney General Eliot Spitzer and other regulators charged the firms with recommending stocks that they privately disparaged in order to get investment-banking assignments from the companies. Without admitting or denying guilt, the Wall Street firms agreed to stop compensating analysts with banking fees and to make them attest to their research opinions.

"There were no facts presented in this case to support the panel's result," said Merrill spokesman Mark Herr. "The claimants' losses, many of which came in blue-chip stocks, were caused by the same thing that caused millions of other investors to lose money between 2000 and 2002: The market plunged. That cannot reasonably be blamed on Merrill Lynch's research."

The three-person NASD panel said it reviewed "clear and convincing evidence" of analyst misconduct.