

NEW YORK STOCK EXCHANGE, INC.

EXCHANGE HEARING PANEL DECISION 05-27

March 7, 2005

MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED
MEMBER ORGANIZATION

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Violated Exchange Rule 342 by failing to reasonably supervise certain business activities, and to establish and maintain appropriate procedures for supervision and control with respect to certain business activities involving the trading of mutual funds; violated Exchange Rule 342.16 in that it failed to review and maintain certain incoming and outgoing communications with the public; and violated Section 17(a) of the Securities and Exchange Act of 1934, SEC Rules 17a-3 and 17a-4 and Exchange Rule 440 in that it failed to make and/or preserve accurate books and records reflecting and/or relating to orders and/or confirmations for transactions executed by Firm employees in variable annuity product sub-accounts held away from the Firm – Consent to censure, a fine of \$13,500,000 and an undertaking.

Appearances:

For the Division of Enforcement
Susan L. Merrill, Esq.
Linda S. Riefberg, Esq.
Susan E. Light, Esq.
Martin S. Mazur, Esq.
Suzanne R. Elovic, Esq.
Catherine P. Dawson, Esq.

For the Respondent
Anne Flannery, Esq.
Kevin Rover, Esq.
Brian Herman, Esq.
Andrew Kandel, Esq.

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An Exchange Hearing Panel met to consider a Stipulation of Facts and Consent to Penalty entered into between the Exchange's Division of Enforcement and Merrill Lynch, Pierce, Fenner & Smith Incorporated ("Merrill Lynch" or the "Firm"). Without admitting or denying guilt, the Firm consented to findings by the Hearing Panel that it:

- I. Violated Exchange Rule 342 by failing to reasonably supervise certain business activities, and to establish and maintain appropriate procedures for supervision and control with respect to certain business activities involving the trading of mutual funds.

- II. Violated Exchange Rule 342.16 in that it failed to review and maintain certain incoming and outgoing communications with the public.
- III. Violated Section 17(a) of the Securities and Exchange Act of 1934, SEC Rules 17a-3 and 17a-4 and Exchange Rule 440 in that it failed to make and/or preserve accurate books and records reflecting and/or relating to orders and/or confirmations for transactions executed by Firm employees in variable annuity product sub-accounts held away from the Firm.

For the sole purpose of settling this disciplinary proceeding, the Division of Enforcement and the Firm stipulate to certain facts, the substance of which follows:

Background and Jurisdiction

1. Merrill Lynch, a member organization of the Exchange, is a registered broker-dealer headquartered in New York, New York. The Firm, or its predecessor, has been a member organization of the Exchange since 1885. A full-service retail brokerage firm, Merrill Lynch engages in, inter alia, brokerage, trading, underwriting, investment banking and investment advisory services. In 2003, it operated more than 640 locations worldwide, and employed approximately 50,000 people, including more than 20,000 registered employees.
2. On or around October 3, 2003, Merrill Lynch advised Enforcement and other regulators, including the Securities and Exchange Commission, that it had discharged registered representatives (“RRs”), (“C”), (“B”) and (“S”), (together with their assistants known as the “CBS Group”).
3. From January 4, 2002 to October 3, 2003, the CBS Group was employed at Merrill Lynch’s Fort Lee, New Jersey branch office, which reported to the Paramus Complex.
4. The Firm further reported on a Form U-5, Uniform Termination Notice for Securities Industry Registration (“Form U-5”) for “C” and “S” that each had failed to follow specific directives and Firm policy prohibiting short-term trading activities in mutual funds on behalf of a client and that they had engaged in other related violations of Firm policy. The Firm reported on a Form U-5 for “B” that he had failed to follow Firm policy prohibiting short-term trading activities in mutual funds on behalf of a client and that he had engaged in other related violations of Firm policy.
5. By letter dated October 31, 2003, Enforcement advised Merrill Lynch that it was investigating the matter.
6. Subsequently, the Firm advised Enforcement that it had fined and internally disciplined three of the CBS Group’s supervisors: W, District Director of Northern New Jersey, “BN”, the Managing Director of the Paramus, New Jersey Complex, and “H”, the Northern New Jersey District Administrative Manager.

7. During the period January 2002 to October 2003 (the “Relevant Period”), the Resident Manager (“RM”) of the Fort Lee branch was “BL”. The Administrative Manager of the Paramus Complex was “G”. “G” and “BL” reported to “BN”, who in turn reported to W. “G” and/or “BL” reviewed the daily transaction reports for the CBS Group.

Relevant Prior Discipline

8. In 2003, Merrill Lynch consented to a censure and a fine of \$900,000 based on a finding that the Firm violated Exchange Rule 342 by failing to reasonably discharge its duties and obligations in connection with the supervision and control of a former registered representative who had numerous customer complaints. The Firm was found, inter alia, to have failed to establish and maintain procedures and systems to adequately supervise the review of accounts for excessive activity and suitability of recommendations. Additionally, the Firm was found to have violated Exchange Rule 440 and SEC Rules 17a-3 and 17a-4 because certain information on its books and records was inaccurate. (HPD 03-99).

OVERVIEW

9. During the Relevant Period, the Firm employed a team of registered representatives known as the CBS Group who engaged in deceptive practices to effect short term trading of mutual funds for customer XYZ (“XYZ”), a hedge fund, which trading was prohibited by Merrill Lynch policy and potentially detrimental to other mutual fund shareholders. Upon learning of these deceptive practices, the Firm failed to take effective action to halt the trading, enhance supervision, or issue sufficient follow-up instructions to ensure adherence to Firm policies and procedures, as well as securities laws and regulations, as set forth below.

Failure to Adequately Supervise and Curtail Short Term Trading of Mutual Funds

10. In 1999, Merrill Lynch established a “Mutual Fund Market-Timing Policy” stating:

Market timing involves the purchase and sale (including through exchange) of shares of mutual funds within short periods of time with the intention of capturing short-term profits resulting from market volatility.

11. The policy set forth that all liquidations of mutual fund positions (including through exchange) within three business days of the original purchase would be presumed to be for the purpose of capturing short-term profits and therefore, subject to rejection or reversal. This was a non-exclusive period, and trades outside the three day period would be subject to reversal if market-timing was involved.

12. The Firm's policy further cautioned, "Managers should be mindful of activity indicating a pattern of short term trading in mutual funds, particularly in accounts involving hedge funds and other pooled monies."

Background

13. In or around November 2001, S contacted BL, Fort Lee's RM, to explore the Firm's interest in employing the CBS Group, which was then employed by another member organization.
14. During the period November 2001 through December 2001, S and C met with representatives of Merrill Lynch, including W and BN, to discuss employment opportunities and contracts.
15. During the course of those discussions, the CBS Group represented that they had over 900 clients and utilized numerous types of investment strategies and asset types for those clients, including "strategic tactical allocation" of mutual funds.
16. While the CBS Group did not fully advise the Merrill Lynch representatives of the actual limited nature of their business or client base, enough was disclosed to raise questions with Merrill Lynch representatives about the nature of their customer business, including concerns about the CBS Group's client base and their reasons for wanting to join Merrill Lynch.
17. In an e-mail to BN dated December 10, 2001, the head of non-proprietary mutual funds sales expressed his reservations about CBS's intended trading strategy: "Mutual Fund trading strategies have never gone well and I am confident there will [be] issues once fund groups see what they are doing. They need to understand we will try and help but if the fund says can't do it then we are obligated to protect existing shareholders interest."
18. By e-mail dated December 19, 2001, from H to G, the Administrative Manager at the Paramus Complex, regarding S's prior customers' complaints, H stated, "It is also important to realize that you, BN, and BL will be providing **the heighten[ed] supervision** of this new team." (emphasis added).
19. In January 2002, after signing agreements with Merrill Lynch providing for potential compensation of approximately \$10 million, the CBS Group began employment at the Firm.
20. The CBS Group's offices were initially located on a different floor from the RM in the Fort Lee, New Jersey branch office until new office space was constructed.

**The Firm Failed to Prevent or Stop
Trades that Violated its Internal Market Timing Policy**

21. Upon joining the Firm in January 2002, the CBS Group opened numerous accounts for XYZ. The accounts were opened in the names of various XYZ entities. Nevertheless, most of the new account documents identified the same contact person, M, a hedge fund trader. All new account openings were approved by a Firm manager.
22. During the period January 2002 to April 23, 2002, the CBS Group effected approximately 3,700 mutual fund transactions for XYZ. Many of the positions purchased during this time period were held less than 30 days before they were exchanged or sold, and some were held less than five days.
23. During the course of the CBS Group's employment, XYZ placed transactions through the CBS Group using multiple accounts. At various times, XYZ also purchased mutual fund positions in one account, journaled the position to another account and then sold or exchanged the mutual fund position. The CBS Group maintained detailed records of the number of transactions in each account.
24. All of the mutual fund trading activity in accounts maintained by XYZ at Merrill Lynch was reflected on daily reports that were generated by the Firm and subject to supervisory review.
25. As early as January 11, 2002, the head of non-proprietary mutual fund sales, who had expressed concern about the CBS Group's trading strategy before the CBS Group was hired, advised W and BN that:

We have heard from [several mutual funds] and I suspect more to come regarding our new Fort Lee FAs S and C. Their mutual fund trading strategies apparently became unacceptable to many funds at [their previous employer] and these fund groups are starting to put us on notice that they will not allow market timing/active trading in their funds. Our Mutual Fund trading desk will have no option but to comply with a directive from a fund group to reject market timing activity. So it looks like there will be some issues here.

26. On February 4, 2002, a manager at Financial Data Services, Inc. ("FDS")¹, advised G, H, BN, BL and others, via e-mail, that XYZ accounts serviced by the CBS Group were engaging in "significant market timing" activity and requested that the activity "cease immediately". That same day, an attorney in Merrill Lynch's Office of General Counsel responded by e-mail, with copies to various persons, including H, BN, G and BL, "All parties should be aware that this issue has implications beyond

¹ FDS is an affiliate of Merrill Lynch that processes mutual fund transactions for the Firm.

- mere violations of Merrill Lynch policy by a few FAs. To the extent that the funds' prospectuses prohibit market timing – and most do – our failure to stop such trading can result in our breach of our dealer agreements with the funds.”
27. Despite the notices and warnings, the Firm did not immediately stop the CBS Group's trading. Instead, certain of the CBS Group's managers initiated conversations with the Firm's Compliance Department and the business divisions to explore possible scenarios under which the mutual fund trading activity could continue.
 28. Meanwhile, throughout February and until late March 2002, the CBS Group continued to trade actively on behalf of XYZ.
 29. On March 18, 2002, a senior-level Firm compliance officer advised against allowing any exception to Merrill Lynch's market timing policy, writing in an e-mail to W, BN, G, H, and others:

We have gone on record that there are to be no further market timing activities for this team...Merrill Lynch, the Mutual Fund community and the Regulatory community have all gone on record in opposition to market timing mutual funds and have specified that these trading patterns work to the detriment of long term holders of the fund...By allowing market timing for this team, we could be alleged to have harmed fund performance for all long term investors ... in the funds . . . [T]his trading activity violates our dealer agreements and regulatory rules that require that funds must only be traded within the terms of their prospectus....
 30. Notwithstanding the Compliance Department's explicit advice to office management that the CBS Group's market-timing activities should be stopped, mutual fund trading continued while supervisors sought explanations of the policy and considered possible exceptions to it.
 31. In March 2002, the Firm's National Sales Manager, after consulting with the Compliance Department, instructed W and others that XYZ's mutual fund trading activity that violated the Firm's anti-market timing policy was to cease. Notwithstanding this instruction, mutual fund trading continued.
 32. On April 26, 2002, an e-mail was sent to the CBS Group by the Firm's Compliance Department instructing the CBS Group to “cease any and all market timing activity and exchanges of mutual funds and ... accept only liquidating orders...”
 33. In May 2002, the National Sales Manager repeated his March 2002 instruction to W and others. The CBS Group adhered to this instruction until August 2002.

**The Firm Permitted the CBS Group to Effect
Short Term Mutual Fund Trades Away from the Firm**

34. In or around August 2002, after the Firm instructed the CBS Group to stop short term mutual fund trading on XYZ's behalf in accounts maintained at Merrill Lynch, BN recommended to the CBS Group a new method for servicing the XYZ accounts. BN advised the CBS Group that XYZ could purchase mutual fund positions at Merrill Lynch, and then transfer the fund positions into XYZ accounts at the mutual fund companies. BN instructed the CBS Group that any short-term trading of mutual fund positions must be done directly by XYZ in accounts held by XYZ at the various mutual fund companies.
35. From August to November 2002, the CBS Group actively executed trades of mutual funds on XYZ's behalf by purchasing positions at Merrill Lynch, thereby earning commissions on those purchases. Subsequently, the CBS Group transferred the positions to accounts established by XYZ at the mutual funds for that purpose, and then executed transactions directly with the mutual funds notwithstanding BN's instructions that any short-term trading of mutual fund positions must be done directly by XYZ. The CBS Group referred to the XYZ accounts established at the mutual fund companies as "de-networked accounts." Additionally, when an XYZ account was opened at a mutual fund, the CBS Group was frequently listed as "Broker of Record."
36. During the Relevant Period, the CBS Group executed trades on XYZ's behalf in de-networked accounts by calling the funds or using the internet. Subsequently, positions were sometimes transferred back to an account maintained by XYZ at the Firm. The receiving accounts were typically fee based accounts where no commissions were charged on the eventual sales.
37. The transfers of positions between accounts maintained at Merrill Lynch and accounts established by XYZ at the various funds were reflected on Firm reports. Additionally, because the CBS Group had listed themselves as Broker of Record on many of the outside accounts, the Firm received trailing commission fees that were reported on the Firm's "Detailed Commission Report" each month. Both of these reports were reviewed by supervisors.
38. The Firm failed to detect that the CBS Group was placing transactions in accounts maintained by XYZ at the mutual funds until November 2002. At that point, FDS was alerted to potential market timing activity in accounts held by XYZ directly at certain mutual funds. The Compliance Department subsequently learned that the CBS Group was executing transactions in an account at one of the funds. BN investigated and then instructed the CBS Group to remove itself as Broker of Record and to take no further role in effecting trades on XYZ's behalf at the various mutual funds. However, the Firm took no additional steps to enhance its monitoring of the CBS Group's activities or to ensure that this instruction was being followed.

**The CBS Group Continued to Effect
Mutual Funds Trades Away From the Firm**

39. Starting in December 2002, the CBS Group removed itself as Broker of Record from XYZ accounts held at various mutual fund companies, as instructed. However, immediately after removing the CBS Group as Broker of Record, XYZ, with the assistance of the CBS Group, sent letters to some of those same fund companies authorizing the CBS Group to place orders in the accounts. The letters were signed by XYZ officers and stamped with Merrill Lynch's signature guarantee medallion stamp.
40. The Firm relied on the CBS Group to seek approval from BL or G for outgoing correspondence and maintain incoming correspondence. The CBS Group had access to a fax machine at the branch and frequently failed to seek approval of incoming and outgoing correspondence.
41. The CBS Group continued executing transactions in accounts maintained by XYZ at the various mutual fund companies. In doing so, certain of the sales assistants failed to properly identify themselves as employees of Merrill Lynch. Instead, certain of the assistants misrepresented themselves as employees of XYZ.
42. In or around April 2003, Merrill Lynch began an internal review concerning these matters.
43. In April 2003, a mutual fund company provided the Firm with a copy of a trading authorization letter used by the CBS Group to execute transactions in accounts maintained by XYZ at the mutual fund company. In May 2003, a Compliance Officer engaged in the internal review found additional copies of the authorization letters described above in the branch office files. Even though the letters contained the Firm's signature guarantee medallion stamp, there was no indication that the letters had been reviewed or approved.
44. After these letters were discovered and the CBS Group was confronted by Firm managers, the CBS Group acknowledged that they had continued to place trades on XYZ's behalf at numerous mutual funds throughout the first four months of 2003, despite the Firm's instruction to play no role in the effecting of trades on XYZ's behalf at the mutual fund companies.
45. Following a series of discussions between Compliance and management, on or about May 23, 2003, W advised the CBS Group that mutual fund positions must be held at least one year, and that any mutual fund sale or exchange within less than a year of purchase would be considered market timing. The internal review continued through the summer of 2003.
46. On August 6, 2003, W reduced the holding period parameters to three months/thirteen weeks. In an e-mail to the CBS Group that date, H reiterated this holding

requirement, instructing that “[s]hould the Prospectus require a longer holding period, you are expected to abide by the requirement established by such prospectus.” H noted, “we are working closely with the Compliance Department to clearly and definitively define a definition of what constitutes Mutual Fund Timing.”

XYZ’s Trades in Sub-Accounts of Annuities Were Executed by Firm RRs

47. During the period January through August 2002, the CBS Group finalized the transfer and/or purchase of multi-million dollar variable annuity and other insurance policies for XYZ.
48. Various XYZ employees were listed as the annuitants, but only M and one other person were authorized to trade the sub-accounts underlying the variable products offered within the annuity policies.
49. During the relevant period, the CBS Group and another RR located in another Merrill Lynch branch office in New Jersey relayed XYZ’s trading instructions regarding variable products sub-accounts to the insurance companies. Specifically, they facilitated XYZ’s trading of the sub-accounts underlying the variable annuity products by directly contacting the insurance company and placing an order by phone or through a website. The insurance company frequently faxed confirmations of those orders to Merrill Lynch.
50. The CBS Group’s managers were aware of the initial purchase of variable product contracts through the CBS Group.
51. However, after the initial purchase transactions, the Firm did not make or maintain records of either the CBS Group’s or the other New Jersey RR’s mutual fund trading within the variable annuity product sub-accounts, nor did the firm retain the confirmations that it received.

The Firm Discharged the CBS Group

52. On October 3, 2003, one day after M pleaded guilty to securities laws violations concerning mutual funds, and following the conclusion of its internal review, the Firm discharged the CBS Group. The Firm thereafter disciplined W, BN and H and imposed substantial fines on BN and W.

Revenue Derived From XYZ Trading

53. During the Relevant Period, XYZ’s business through the CBS Group and the other New Jersey RR accounted for approximately \$12.5 million in production credits. The CBS Group was compensated by Merrill Lynch in the amount of approximately \$5,000,000 over the Relevant Period. In addition, the CBS Group received awards and benefits amounting to approximately \$100,000.

The Firm Inadequately Responded to Numerous Red Flags That Evidence the CBS Group's Misconduct

54. The Firm, through its supervisors and managers, failed to recognize and/or effectively act upon numerous red flags that indicated that the CBS Group engaged in a consistent pattern of deceptive market timing including:
- a. The CBS Group opened numerous accounts on XYZ's behalf and effected numerous mutual fund transactions in each;
 - b. The CBS Group effected virtually no other trading strategies, other than the frequent short term trading of mutual funds, notwithstanding their representations during employment negotiations that their business consisted of diverse investment strategies and asset types;
 - c. The CBS Group executed approximately 3,700 mutual fund transactions on XYZ's behalf during their first four months of employment;
 - d. The CBS Group failed to adhere to a manager's instructions that they take no part in the execution of trades on XYZ's behalf in accounts established by XYZ at the mutual fund companies;
 - e. The Firm and various of its supervisors and managers failed to recognize or take note of the trailing commission fees being paid to the Firm as a result of the trading in de-networked accounts, for which the CBS Group was listed as Broker of Record.

The Firm Failed to Supervise the CBS Group In Violation of Exchange Rule 342

55. Exchange Rule 342 requires that member organizations provide for reasonable and appropriate supervisory control over every business activity and compliance with Exchange rules and the federal securities laws, and this includes establishing a separate system of follow-up and review. The Firm's failure to reasonably supervise the CBS Group's business activities relating to mutual fund trading in light of these warning signs constitutes a violation of Exchange Rule 342.
56. Even upon discovery that the CBS Group had misrepresented its business during employment negotiations and had ignored and/or circumvented Firm policies and procedures relating to market timing upon their arrival, the Firm did not implement adequate supervisory procedures to ensure that the CBS Group's market timing activities had stopped. Furthermore, once the Firm discovered that the CBS Group had either defied or misunderstood the Firm's instructions concerning the de-networked accounts, the Firm failed to heighten its supervision of the CBS Group in

order to ensure that they no longer had any involvement in XYZ trading away from the Firm.

57. The Firm had no policies or procedures for reviewing or supervising the trading of Firm customers in annuity sub-accounts held outside the Firm.
58. The Firm failed to adequately monitor the incoming and outgoing correspondence of the CBS Group.
59. The Firm failed to review or detect correspondence in the branch office files that indicated that the CBS Group had retained authority to execute trades on XYZ's behalf in the de-networked accounts, even after the CBS Group had been instructed to refrain from taking any part in the execution of mutual fund trades on XYZ's behalf in accounts established by XYZ at the mutual fund companies.

The Firm Failed to Maintain Required Books and Records Relating to Trading in Annuity Sub-Accounts, In Violation of SEC Rules 17a-3 and 17a-4 and Exchange Rule 440

60. Section 17 (a)(1) of the Exchange Act provides that each member of a national securities exchange, broker or dealer “shall make and keep for prescribed periods such records, furnish copies thereof, and make and disseminate such reports as the Commission, by rule, prescribes as necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of this title.”
61. Pursuant to its authority under Section 17(a)(1), the Commission promulgated SEC Rules 17a-3 and 17a-4. Rule 17a-3(a)(6) requires Merrill Lynch to “make and keep current...a memorandum of each brokerage order, and of any other instruction, given or received for the purchase or sales of securities...” Rule 17a-4(b)(4) requires Merrill Lynch to preserve “[o]riginals of all communications received and copies of all communications sent by such member, broker or dealer (including inter-office memoranda and communications) relating to [the Firm's] business as such.”
62. Exchange Rule 440 requires that “every member organization shall make and preserve books and records as the Exchange may prescribe and as prescribed by Rule 17a-3.”
63. The Firm violated SEC Rules 17a-3 and 17a-4 and Exchange Rule 440 by failing to make and/or preserve accurate books and records reflecting purchase, sale, or exchange orders and/or confirmations for variable annuity product sub-account transactions effected by Firm RRs.

Additional Factors Considered

64. The Firm has represented to Enforcement that it has enhanced and/or changed its procedures in the areas that are the subject of this Stipulation and Consent, as set forth below.
65. Following the conclusion of its internal review, the Firm discharged the CBS Group and reported the situation to several regulators. The Firm thereafter disciplined W, BN and H and imposed substantial fines on W and BN.
66. The Firm promptly reported the matters that are the subject of this Stipulation to the Exchange and other regulators and has fully cooperated with the Exchange in all respects in connection with this matter.

DECISION

The Hearing Panel, in accepting the Stipulation of Facts and Consent to Penalty, found the Firm guilty as set forth above by unanimous vote.

PENALTY

In view of the above findings, the Hearing Panel, by unanimous vote, imposed the penalty consented to by the Firm of a censure, a fine in the amount of \$13,500,000, and an undertaking. The amount paid to the Exchange by Merrill Lynch shall be waived in consideration of a \$10,000,000 fine paid to the State of New Jersey and a payment totaling \$3,500,000 in furtherance of a settlement with the State of Connecticut. The payment to Connecticut will be paid as follows: \$1,000,000 as a monetary penalty; a commitment to spend an additional \$2,000,000 over the next four years to the Firm's "Investing Pays Off" investor education initiative; and a contribution of \$500,000 for law enforcement/regulatory training related to financial issues.

The Firm shall complete an undertaking within ninety days to inform the Exchange in writing that it has complied with the following conditions:

- a. The issuance of a Global Compliance Alert communication detailing the Firm's policies and procedures with respect to the review and retention of incoming and outgoing correspondence and fax transmissions as set forth in the Compliance Outline and Branch Office Policy Manual. The Global Compliance Alert will also advise financial advisors that correspondence and fax transmissions concerning a client's reallocation of the sub-accounts of variable products shall be maintained in accordance with these policies and procedures;
- b. The implementation of a policy and procedure addressing how financial advisors should deal with instructions from Merrill Lynch clients to trade mutual fund positions in accounts held outside of Merrill Lynch.

- c. The commencement of the development by the Firm and Merrill Lynch Insurance Group Inc. (“MLIG”), its affiliate, of technology to allow the recording of client reallocation requests regarding the underlying sub-accounts of non-proprietary variable annuity products where such requests are relayed from a client to the insurance carrier through a Merrill Lynch employee.
- d. The implementation by Financial Data Services, Inc. (“FDS”), a Firm affiliate, of a procedure requiring FDS to provide client tax identification numbers to the National Securities Clearing Corporation (“NSCC”) when transmitting orders to mutual fund companies on behalf of Merrill Lynch clients to buy or exchange mutual fund positions. The procedure will further require FDS to provide a tax identification number to NSCC when transmitting orders on behalf of Merrill Lynch clients to sell mutual fund positions provided the mutual fund companies elect to receive the tax identification number.

For the Hearing Panel

Vincent F. Murphy – Hearing Officer
Panelists:
William J. Burke, III
Joseph C. Gawronski