

NASD
LETTER OF ACCEPTANCE, WAIVER AND CONSENT

20042000043-01

**TO: Department of Market Regulation
NASD**

**RE: Merrill Lynch, Pierce, Fenner & Smith Incorporated, Respondent
Broker-Dealer
CRD No. 7691**

Pursuant to Rule 9216 of NASD Code of Procedure, Merrill Lynch, Pierce, Fenner & Smith Incorporated ("MLCO" or the "firm") submits this Letter of Acceptance, Waiver and Consent ("AWC") for the purpose of proposing a settlement of the alleged rule violations described in Part II below. This AWC is submitted on the condition that, if accepted, NASD will not bring any future actions against the firm alleging violations based on the same factual findings.

The firm understands that:

1. Submission of this AWC is voluntary and will not resolve this matter unless and until it has been reviewed and accepted by NASD's Department of Market Regulation and National Adjudicatory Council ("NAC") Review Subcommittee or Office of Disciplinary Affairs ("ODA") pursuant to NASD Rule 9216;
2. If this AWC is not accepted, its submission will not be used as evidence to prove any of the allegations against the firm; and
3. If accepted:
 - a. this AWC will become part of the firm's permanent disciplinary record and may be considered in any future actions brought by NASD or any other regulator against the firm;
 - b. this AWC will be made available through NASD's public disclosure program in response to public inquiries about any of the firm's disciplinary records;
 - c. NASD may make a public announcement concerning this agreement and the subject matter thereof in accordance with NASD Rule 8310 and IM-8310-2; and

- d. The firm may not take any action or make or permit to be made any public statement, including in regulatory filings or otherwise, denying, directly or indirectly, any allegation in this AWC or create the impression that the AWC is without factual basis. Nothing in this provision affects the firm's testimonial obligations or right to take legal or factual positions in litigation or other legal proceedings in which NASD is not a party.

The firm also understands that its experience in the securities industry and disciplinary history may be factors that will be considered in deciding whether to accept this AWC. That experience and history are as follows:

MLCO has been a member of the Association since January 26, 1937. The firm has the following relevant disciplinary history:

- ❑ On June 23, 2003, an AWC became final in which MLCO was censured and fined \$12,500 for violations of NASD Conduct Rules 2110, 2320(g), 3010 and 3110(b)(2), and SEC Rule 11Ac1-4;
- ❑ On December 20, 2000, an AWC became final in which MLCO was censured and fined \$97,000 for violations of the duty of best execution, the rules applicable to short sale reporting, locked and/or crossed markets and transaction reporting, the Limit Order Display Rule, Short Sale Reporting.

I.

WAIVER OF PROCEDURAL RIGHTS

The firm specifically and voluntarily waives the following rights granted under NASD's Code of Procedure:

- A. To have a Formal Complaint issued specifying the allegations against it;
- B. To be notified of the Formal Complaint and have the opportunity to answer the allegations in writing;
- C. To defend against the allegations in a disciplinary hearing before a hearing panel, to have a written record of the hearing made and to have a written decision issued; and
- D. To appeal any such decision to the NAC and then to the U.S. Securities and Exchange Commission and a U.S. Court of Appeals.

The firm specifically and voluntarily waives any right to claim bias or prejudgment of the

General Counsel, the NAC, or any member of the NAC, in connection with such person's or body's participation in discussions regarding the terms and conditions of this AWC, or other consideration of this AWC, including acceptance or rejection of this AWC.

The firm further specifically and voluntarily waives any right to claim that a person violated the ex parte prohibitions of Rule 9143 or the separation of functions prohibitions of Rule 9144, in connection with such person's or body's participation in discussions regarding the terms and conditions of this AWC, or other consideration of this AWC, including its acceptance or rejection.

II.

ACCEPTANCE AND CONSENT

In connection with MRD200339074, the staff of the Department of Market Regulation of NASD (the "staff") conducted a review of MLCO's compliance with the duty of best execution during the period of October 1, 2002 through December 31, 2002.

In connection with MRD200342948, the staff conducted a review of MLCO's compliance with the duty of best execution during the period of July 1, 2003 through September 30, 2003.

- A. MLCO hereby accepts and consents, without admitting or denying the allegations or findings, and solely for the purposes of this proceeding and any other proceeding brought by or on behalf of NASD, or to which NASD is a party, prior to a hearing and without an adjudication of any issue of law or fact, to the entry of the following findings by NASD:

In connection with MRD200339074:

1. In 67 transactions for or with a customer, MLCO failed to use reasonable diligence to ascertain the best inter-dealer market and failed to buy or sell in such market so that the resultant price to its customer was as favorable as possible under prevailing market conditions, as reflected on Exhibit A, which is attached hereto and incorporated herein by reference.

In connection with MRD200342948:

2. In 58 transactions for or with a customer, MLCO failed to use reasonable diligence to ascertain the best inter-dealer market and failed to buy or sell in such market so that the resultant price to its customer was as favorable as possible under prevailing market

conditions, as reflected on Exhibit B, which is attached hereto and incorporated herein by reference.

3. The conduct described in paragraphs one and two constitutes separate and distinct violations of NASD Conduct Rules 2110 and 2320.

- B. Respondent also consents to the imposition, at a maximum, of the following sanctions:

A censure, a fine of \$40,000 (composed of a \$20,000 fine for the best execution violations in MRD200339074 and a \$20,000 fine for the best execution violations in MRD200342948), and restitution by Respondent to the parties involved in the transactions described on Exhibits A and B thereto (the "Recipients") in the total amount of \$2,697.32, plus interest at the rate set forth in Section 6621(a) of the Internal Revenue Code, 26 U.S.C. 6621(a)(2), from the date of the violative conduct until the date this Letter of Acceptance, Waiver and Consent is accepted by the National Adjudicatory Council. No later than 120 days after acceptance of this Letter of Acceptance, Waiver and Consent, a registered principal of the firm shall submit to COMPLIANCE ASSISTANT, LEGAL SECTION, MARKET REGULATION DEPARTMENT, 9509 KEY WEST AVENUE, ROCKVILLE, MD 20850:

- (1) A schedule showing (a) the amount of restitution paid to each Recipient, (b) the amount of interest paid to each Recipient, (c) the date restitution and interest was paid, and (d) any amounts paid to escheat, unclaimed-property or abandoned-property funds; and
- (2) Satisfactory proof of payment as detailed in (1), and of reasonable and documented efforts undertaken to effect restitution prior to making payments to escheat, unclaimed-property or abandoned-property funds.

If for any reason, Respondent cannot locate any Recipient after reasonable and documented efforts within such period, or such additional period agreed to by the staff, Respondent shall forward any undistributed restitution and interest to the appropriate escheat, unclaimed-property or abandoned-property fund for the state in which the customer last resided.

The sanction imposed herein shall be effective on a date set by NASD staff.

III.

OTHER MATTERS

- A. The firm understands that it may attach a Corrective Action Statement to this AWC

that is a statement of demonstrable corrective steps taken to prevent future misconduct. The firm understands that it may not deny the charges or make any statement that is inconsistent with the AWC in this Statement. This Statement does not constitute factual or legal findings by NASD, nor does it reflect the views of NASD or its staff.

- B. The firm agrees to pay any monetary sanctions imposed on it upon notice that this AWC has been accepted and that such payments are due and payable and has attached an Election of Payment form showing the method by which it proposes to pay any fine imposed.
- C. The firm specifically and voluntarily waives any right to claim that it is unable to pay, now or at any time hereafter, any monetary sanction imposed in this matter.

The firm certifies that it has read and understands all of the provisions of this AWC and has been given a full opportunity to ask questions about it, and that no offer, threat, inducement, or promise of any kind, other than the terms set forth herein, has been made to induce the firm to submit it.

August 26, 2005

Date

Respondent
Merrill Lynch, Pierce, Fenner & Smith
Incorporated

By: Lauri Scoran

Name: Lauri Scoran

Title: First Vice President

Reviewed by:

David Marcus

Counsel for Respondent

Accepted by NASD:

11/14/05
Date

Thomas R. Gira
Thomas R. Gira
Executive Vice President and Deputy
Department of Market Regulation

Signed on behalf of the Director of ODA, by
delegated authority

Order Information										Trade Information										Restitution		
No.	Date	Issue	Order to R/S	Quantity	Time Received	Inside Bid at Receipt	Inside Ask at Receipt	Order ID	MFID	Capacity	B/S/X	Executed Quantity	Execution Price	Report Time	Execution Time	Contra	Inside Bid at Execution	Inside Ask at Execution	MP BSeq	Adjustment Price	Adjustment Amount	
1	10/1/2002	RFMD	S	1000	14:44:46	6.49	6.5		MLCO	P	B	500	6.45	14:55:53	14:55:53		6.45	6.46	BBZZ5868	\$6.49	\$20.00	
2a	10/3/2002	SUPX	S	1000	13:33:05	10.62	10.64		MLCO	R	B	100	10.6	13:40:32	13:40:32		10.6	10.64	SSZZ5440	N/A	\$0.00	
2b	10/3/2002	SUPX	S	1000	13:33:05	10.62	10.64		MLCO	P	B	900	10.43	13:40:58	13:40:58		10.43	10.64	SSZZ5440	N/A	\$0.00	
3	10/8/2002	CBRL	S	100	13:22:16	21.54	21.56		MLCO	P	B	100	21.451	13:27:05	13:27:04		21.45	21.49	PGZZ0015	\$21.54	\$8.90	
4a	10/10/2002	BTGC	S	1000	13:27:18	2.2	2.21		MLCO	R	B	275	2.171	13:34:03	13:34:03		2.17	2.2	XHZZ3047	\$2.20	\$7.98	
4b	10/10/2002	BTGC	S	1000	13:27:18	2.2	2.21		MLCO	R	B	100	2.17	13:34:05	13:34:04		2.16	2.2	XHZZ3047	\$2.20	\$3.00	
4c	10/10/2002	BTGC	S	1000	13:27:18	2.2	2.21		MLCO	P	B	625	2.16	13:34:28	13:34:28		2.16	2.19	XHZZ3047	\$2.20	\$25.00	
																				100x19.33		
																				100x19.30		
5a	10/10/2002	DCOM	S	575	9:50:44	19.27	19.38		MLCO	R	B	200	19.15	10:00:39	10:00:38		19.15	19.23	NNZZ4563	\$19.29	\$33.00	
5b	10/10/2002	DCOM	S	575	9:50:44	19.27	19.38		MLCO	R	B	375	19.15	10:00:44	10:00:43		19.15	19.23	NNZZ4563	\$19.29	\$52.50	
6	10/17/2002	IMMR	S	300	10:07:03	1.87	1.9		MLCO	R	B	300	1.831	10:18:19	10:18:18		1.83	1.89	NPZZ2925	\$1.87	\$11.70	
7a	10/21/2002	COCO	S	800	12:37:32	38.86	38.9		MLCO	R	B	100	38.8599	12:42:46	12:42:46		38.85	38.86	SYZZ4826	N/A	\$0.00	
7b	10/21/2002	COCO	S	800	12:37:32	38.86	38.9		MLCO	R	B	500	38.85	12:42:47	12:42:46		38.85	38.86	SYZZ4826	N/A	\$0.00	
8	10/22/2002	JBHT	B	1000	13:08:16	28.33	28.4		MLCO	R	S	1000	28.41	13:15:05	13:15:04		28.37	28.41	XCMM2653	N/A	\$0.00	
9a	10/24/2002	ESPR	B	1000	12:52:46	5.66	5.72		MLCO	R	S	100	5.74	13:01:01	13:01:00		5.66	5.74	YFZZ3998	N/A	\$0.00	
9b	10/24/2002	ESPR	B	1000	12:52:46	5.66	5.72		MLCO	R	S	300	5.75	13:01:06	13:01:05		5.66	5.75	YFZZ3998	N/A	\$0.00	
9c	10/24/2002	ESPR	B	1000	12:52:46	5.66	5.72		MLCO	R	S	500	5.75	13:01:06	13:01:05		5.66	5.75	YFZZ3998	N/A	\$0.00	
9d	10/24/2002	ESPR	B	1000	12:52:46	5.66	5.72		MLCO	P	S	100	5.75	13:01:23	13:01:22		5.66	5.75	YFZZ3998	N/A	\$0.00	
10	10/28/2002	AMSC	B	1000	14:31:23	3.16	3.19		MLCO	P	S	1000	3.2	14:38:55	14:38:54		3.16	3.2	PGZZ4918	N/A	\$0.00	
11	10/28/2002	GLDB	B	1000	13:14:49	9.46	9.49		MLCO	P	S	1000	9.5	13:23:23	13:23:22		9.48	9.5	PIZZ4433	N/A	\$0.00	
12a	10/28/2002	RMCI	B	800	12:50:01	13.04	13.05		MLCO	R	S	400	13.08	12:56:32	12:56:31		13.04	13.05	YYZZ2937	\$13.05	\$6.00	
12b	10/28/2002	RMCI	B	800	12:50:01	13.04	13.05		MLCO	R	S	100	13.07	12:56:32	12:56:31		13.04	13.05	YYZZ2937	N/A	\$0.00	
12c	10/28/2002	RMCI	B	800	12:50:01	13.04	13.05		MLCO	R	S	300	13.05	12:56:32	12:56:32		13.04	13.05	YYZZ2937	N/A	\$0.00	
13	10/30/2002	BMET	S	300	14:55:27	30.22	30.24		MLCO	P	B	300	30.14	15:01:26	15:01:25		30.12	30.12	XHZZ6973	\$30.26	\$36.00	
14	10/30/2002	CLTK	S	400	13:39:55	6.81	6.83		MLCO	R	B	300	6.79	13:44:34	13:44:33		6.79	6.83	FDZZ5690	N/A	\$0.00	
15a	10/30/2002	JCOM	B	850	12:57:51	27.38	27.4		MLCO	R	S	100	27.45	13:05:11	13:05:10		27.41	27.45	SYZZ6792	\$27.40	\$5.00	
15b	10/30/2002	JCOM	B	850	12:57:51	27.38	27.4		MLCO	R	S	100	27.45	13:05:11	13:05:11		27.41	27.45	SYZZ6792	\$27.40	\$5.00	
15c	10/30/2002	JCOM	B	850	12:57:51	27.38	27.4		MLCO	R	S	100	27.48	13:05:16	13:05:15		27.41	27.48	SYZZ6792	\$27.40	\$8.00	
15d	10/30/2002	JCOM	B	850	12:57:51	27.38	27.4		MLCO	P	S	550	27.45	16:29:08	13:05:20		27.47	27.49	SYZZ6792	\$27.40	\$27.50	
16	10/30/2002	WEDC	B	1000	11:04:11	9.48	9.5		MLCO	P	S	100	9.6	11:12:33	11:12:33		9.59	9.6	LKZZ5018	\$9.50	\$10.00	
17	10/31/2002	EMKR	B	1000	15:01:14	1.96	2		MLCO	P	S	900	2.05	15:06:03	15:06:03		2.02	2.05	NXZZ7212	\$2.00	\$5.00	
18	11/1/2002	IMCL	B	500	15:02:48	7.82	7.83		MLCO	R	S	300	7.89	15:09:01	15:09:00		7.86	7.88	FAZZ6376	\$7.85	\$12.00	
19	11/4/2002	ADRX	B	1000	13:01:04	18.23	18.24		MLCO	P	S	100	18.28	13:06:45	13:06:45		18.27	18.28	RCGZ2857	\$18.21	\$7.00	
20a	11/7/2002	FNIS	S	700	14:29:57	20.89	20.9		MLCO	R	B	100	20.86	14:33:33	14:33:33		20.86	21	WLZZ5816	\$20.89	\$3.00	
20b	11/7/2002	FNIS	S	700	14:29:57	20.89	20.9		MLCO	R	B	100	20.86	14:33:33	14:33:33		20.86	21	WLZZ5816	\$20.89	\$3.00	
20c	11/7/2002	FNIS	S	700	14:29:57	20.89	20.9		MLCO	R	B	300	20.841	14:35:40	14:35:39		20.84	21	WLZZ5816	\$20.89	\$14.70	
20d	11/7/2002	FNIS	S	700	14:29:57	20.89	20.9		MLCO	R	B	200	20.84	14:35:40	14:35:39		20.84	21	WLZZ5816	\$20.89	\$10.00	
21	11/7/2002	KANA	S	111	10:09:00	1.92	1.95		MLCO	P	B	111	1.9	10:17:00	10:16:58		1.92	1.95	ZLZZ3543	\$1.92	\$2.22	
22	11/8/2002	CRGN	S	250	13:55:20	3.98	3.99		MLCO	P	B	250	3.96	14:03:43	14:01:00		3.96	3.98	XLZZ6192	N/A	\$0.00	
23a	11/12/2002	SEIC	B	620	9:36:21	26.38	26.47		MLCO	R	S	100	26.64	9:42:01	9:42:01		26.61	26.67	DAZZ2785	N/A	\$0.00	
23b	11/12/2002	SEIC	B	620	9:36:21	26.38	26.47		MLCO	R	S	100	26.67	9:42:04	9:42:03		26.61	26.67	DAZZ2785	\$26.47	\$20.00	
23c	11/12/2002	SEIC	B	620	9:36:21	26.38	26.47		MLCO	R	S	300	26.67	9:42:04	9:42:03		26.61	26.67	DAZZ2785	\$26.47	\$60.00	
23d	11/12/2002	SEIC	B	620	9:36:21	26.38	26.47		MLCO	P	S	120	26.68	9:42:13	9:42:03		26.61	26.67	DAZZ2785	N/A	\$0.00	
24	11/13/2002	CARS	B	600	14:56:53	23.87	23.94		MLCO	P	S	600	24	15:07:36	15:07:36		23.87	24	UYZZ7344	\$23.86	\$84.00	
25	11/13/2002	INCY	S	1000	10:27:19	5.49	5.53		MLCO	P	B	1000	5.39	10:35:22	10:35:22		5.39	5.43	NYZZ7150	\$5.49	\$100.00	
26	11/14/2002	ADLR	S	478	12:21:57	14.15	14.25		MLCO	P	B	478	14.13	12:35:52	12:35:51		14.13	14.25	WPZZ7943	\$14.15	\$9.56	

Order Information										Trade Information										Restitution		
No.	Date	Issue	Order to B/S	Quantity	Time Received	Inside Bid at Receipt	Inside Ask at Receipt	Order ID	MPID	Capacity	B/S/X	Executed Quantity	Execution Price	Report Time	Execution Time	Contra	Inside Bid at Execution	Inside Ask at Execution	MP BSeq	Adjustment Price	Adjustment Amount	
27	11/18/2002	ORCL	B	100	13:35:35	10.56	10.57		MLCO	R	S	100	10.6	13:40:37	13:40:37		10.6	10.61	FLZZ5107	\$10.57	\$3.00	
28a	11/18/2002	VPHM	B	500	15:35:39	1.27	1.33		MLCO	R	S	300	1.35	15:40:23	15:40:22		1.27	1.35	FAZZ2835	N/A	\$0.00	
28b	11/18/2002	VPHM	B	500	15:35:39	1.27	1.33		MLCO	P	S	100	1.35	15:40:23	15:40:22		1.27	1.35	FAZZ2835	N/A	\$0.00	
28c	11/18/2002	VPHM	B	500	15:35:39	1.27	1.33		MLCO	P	S	100	1.36	15:40:42	15:40:42		1.3	1.36	FAZZ2835	N/A	\$0.00	
29	11/20/2002	SNDK	B	1000	13:19:01	23.33	23.35		MLCO	R	S	200	23.65	13:33:13	13:33:13		23.61	23.65	HGZZ5508	\$23.40	\$50.00	
30	11/21/2002	ADBE	S	200	15:24:23	30.19	30.2		MLCO	P	B	200	29.95	15:29:02	15:29:00		29.96	29.98	FSZZ4427	\$30.21	\$52.00	
31	11/21/2002	ASCL	B	1000	15:35:21	2.8	2.81		MLCO	P	S	1000	2.85	15:48:19	15:48:18		2.82	2.85	UIZZ6308	N/A	\$0.00	
32	11/21/2002	MSFT	S	100	15:37:11	57.58	57.59		MLCO	R	B	100	57.48	15:46:36	15:46:21		57.48	57.49	UNZZ2781	\$57.59	\$11.00	
33	11/21/2002	XRAY	B	400	15:38:55	31.9	31.95		MLCO	R	S	400	32.24	15:47:44	15:47:44		32.2	32.24	PEZZ3801	\$32.00	\$96.00	
34	11/26/2002	PNRA	B	700	13:39:58	35.84	35.85		MLCO	R	S	200	35.87	13:47:43	13:47:42		35.82	35.87	SYZZ6186	\$35.84	\$6.00	
35	11/27/2002	APHT	B	500	15:15:18	2.74	2.75		MLCO	P	S	200	2.84	15:20:56	15:20:53		2.73	2.84	IAZZ3663	\$2.75	\$18.00	
36a	12/4/2002	MVSN	B	1000	12:17:24	17.78	17.85		MLCO	R	S	100	17.87	12:22:34	12:22:34		17.8	17.87	XEGZZ666	\$17.78	\$9.00	
36b	12/4/2002	MVSN	B	1000	12:17:24	17.78	17.85		MLCO	R	S	100	17.87	12:22:35	12:22:34		17.8	17.87	XEGZZ666	\$17.78	\$9.00	
36c	12/4/2002	MVSN	B	1000	12:17:24	17.78	17.85		MLCO	R	S	300	17.92	12:22:49	12:22:48		17.85	17.92	XEGZZ666	\$17.78	\$42.00	
37a	12/5/2002	FNIN	S	500	9:49:54	13.61	13.85		MLCO	R	B	100	13.6	9:55:02	9:55:01		13.6	13.85	KJZZ3600	\$13.61	\$1.00	
37b	12/5/2002	FNIN	S	500	9:49:54	13.61	13.85		MLCO	R	B	100	13.6	9:55:02	9:55:01		13.6	13.85	KJZZ3600	N/A	\$0.00	
38	12/5/2002	IDNX	S	671	10:34:02	6.16	6.2		MLCO	R	B	371	6.06	10:43:32	10:43:32		6.06	6.1	SNFZZ4872	\$6.18	\$44.52	
39	12/5/2002	VRTS	S	230	9:59:56	17.88	17.9		MLCO	P	B	230	17.85	10:04:57	10:04:55		17.86	17.88	MNFZZ9999	\$17.98	\$29.90	
40a	12/6/2002	PBKS	S	788	12:27:33	22.49	22.5		MLCO	R	B	100	22.45	12:39:40	12:39:39		22.45	22.49	ONEZZ5336	N/A	\$0.00	
40b	12/6/2002	PBKS	S	788	12:27:33	22.49	22.5		MLCO	R	B	100	22.41	12:39:44	12:39:43		22.41	22.49	ONEZZ5336	N/A	\$0.00	
40c	12/6/2002	PBKS	S	788	12:27:33	22.49	22.5		MLCO	R	B	100	22.4	12:39:47	12:39:46		22.4	22.19	ONEZZ5336	N/A	\$0.00	
41a	12/9/2002	QUIN	S	1000	13:18:20	6.74	6.8		MLCO	R	B	100	6.74	13:24:35	13:24:35		6.72	6.8	XNFFZ6192	N/A	\$0.00	
41b	12/9/2002	QUIN	S	1000	13:18:20	6.74	6.8		MLCO	R	B	100	6.72	13:24:52	13:24:52		6.67	6.8	XNFFZ6192	N/A	\$0.00	
41c	12/9/2002	QUIN	S	1000	13:18:20	6.74	6.8		MLCO	R	B	100	6.67	13:24:55	13:24:54		6.62	6.8	XNFFZ6192	N/A	\$0.00	
41d	12/9/2002	QUIN	S	1000	13:18:20	6.74	6.8		MLCO	R	B	100	6.62	13:24:57	13:24:57		6.59	6.8	XNFFZ6192	N/A	\$0.00	
41e	12/9/2002	QUIN	S	1000	13:18:20	6.74	6.8		MLCO	R	B	100	6.62	13:24:57	13:24:57		6.59	6.8	XNFFZ6192	N/A	\$0.00	
42	12/10/2002	CFNB	S	490	14:51:05	11.77	12.05		MLCO	P	B	190	11.76	14:56:23	14:56:22		11.76	12.04	YVZZA112	N/A	\$0.00	
43a	12/11/2002	MRCY	S	1000	14:43:43	30.98	31.11		MLCO	R	B	100	30.951	14:53:48	14:53:47		30.95	31.15	GAZZ3124	\$31.10	\$14.90	
43b	12/11/2002	MRCY	S	1000	14:43:43	30.98	31.11		MLCO	R	B	100	30.95	14:53:48	14:53:47		30.95	31.15	GAZZ3124	\$31.10	\$15.00	
43c	12/11/2002	MRCY	S	1000	14:43:43	30.98	31.11		MLCO	R	B	200	31.021	14:53:48	14:53:48		30.92	31.15	GAZZ3124	\$31.10	\$15.80	
43d	12/11/2002	MRCY	S	1000	14:43:43	30.98	31.11		MLCO	R	B	100	30.96	14:53:48	14:53:48		30.92	31.15	GAZZ3124	\$31.10	\$14.00	
44a	12/12/2002	ASVT	B	700	10:52:21	8.05	8.1		MLCO	R	S	100	8.16	11:01:37	11:01:37		8.15	8.16	SDMZ5102	N/A	\$0.00	
44b	12/12/2002	ASVT	B	700	10:52:21	8.05	8.1		MLCO	R	S	100	8.16	11:01:37	11:01:37		8.15	8.16	SDMZ5102	N/A	\$0.00	
45	12/12/2002	RNDC	S	1000	15:00:50	3.95	3.98		MLCO	R	B	500	3.91	15:08:34	15:08:34		3.91	3.92	CRZZ6226	N/A	\$0.00	
46	12/13/2002	EXBD	S	400	10:08:27	30.96	31		MLCO	P	B	100	30.87	10:13:26	10:13:26		30.87	30.95	FMZZ2281	\$30.96	\$9.00	
47	12/13/2002	FRME	S	500	13:41:19	22.03	22.48		MLCO	P	B	200	22.01	13:56:00	13:56:00		22.01	22.45	SRZZ6737	N/A	\$0.00	
48	12/13/2002	NOVN	B	500	10:58:37	9.95	9.97		MLCO	P	S	400	9.98	11:03:24	11:03:23		9.95	9.98	BEZZ6422	\$9.97	\$4.00	
49a	12/13/2002	OTTR	S	468	14:41:29	27.74	27.9		MLCO	P	B	300	27.73	14:46:33	14:46:32		27.74	27.9	SKZZ5352	\$27.74	\$2.00	
49b	12/13/2002	OTTR	S	468	14:41:29	27.74	27.9		MLCO	P	B	168	27.73	14:46:43	14:46:42		27.73	27.9	SKZZ5352	N/A	\$0.00	
50a	12/13/2002	RGLD	B	1000	11:57:02	21.93	21.98		MLCO	R	S	100	22.22	12:10:14	12:10:14		22.18	22.22	NWZZ6556	\$22.00	\$22.00	
50b	12/13/2002	RGLD	B	1000	11:57:02	21.93	21.98		MLCO	R	S	100	22.25	12:10:14	12:10:14		22.18	22.22	NWZZ6556	\$22.00	\$125.00	
51	12/13/2002	VXGN	S	500	11:10:51	15.67	15.71		MLCO	P	B	200	15.28	11:16:42	11:16:41		15.28	15.68	SDZZ5061	\$15.64	\$72.00	
52	12/16/2002	TRQ	S	500	10:32:12	24.13	24.19		MLCO	P	B	200	24.1	10:38:58	10:38:41		24.11	24.22	SEZZ7497	\$24.12	\$4.00	
53a	12/18/2002	NCEN	S	1000	14:53:15	24.11	24.12		MLCO	R	B	100	24.04	15:02:59	15:02:59		24.04	24.05	UZZZZ6831	\$24.13	\$9.00	
53b	12/18/2002	NCEN	S	1000	14:53:15	24.11	24.12		MLCO	R	B	100	24.04	15:03:00	15:02:59		24.04	24.05	UZZZZ6831	\$24.13	\$9.00	
53c	12/18/2002	NCEN	S	1000	14:53:15	24.11	24.12		MLCO	R	B	300	24.02	15:03:01	15:03:00		24.02	24.05	UZZZZ6831	\$24.13	\$33.00	
53d	12/18/2002	NCEN	S	1000	14:53:15	24.11	24.12		MLCO	R	B	100	24.03	15:03:01	15:03:00		24.02	24.05	UZZZZ6831	\$24.13	\$10.00	

MRD200339074/20042000043

Merrill Lynch, Pierce Fenner & Smith, Inc. ("MLCO")

Exhibit A

Order Information										Trade Information										Restitution		
No.	Date	Issue	Order to B/S	Quantity	Time Received	Inside Bid at Receipt	Inside Ask at Receipt	Order ID	MPID	Capacity	B/S/X	Executed Quantity	Execution Price	Report Time	Execution Time	Contra	Inside Bid at Execution	Inside Ask at Execution	MP BSeq	Adjustment Price	Adjustment Amount	
53e	12/18/2002	NCEN	S	1000	14:53:15	24.11	24.12		MLCO	R	B	100	24.03	15:03:01	15:03:00		24.02	24.05	UZZZ6831	\$24.13	\$10.00	
54	12/19/2002	ADPT	S	1000	13:12:04	5.7	5.71		MLCO	R	B	500	5.69	13:18:53	13:18:53		5.69	5.69	OZZZ4132	\$5.70	\$5.00	
55a	12/23/2002	RGLD	B	1000	12:49:41	23.3	23.37		MLCO	R	S	500	23.45	12:57:23	12:57:23		23.4	23.45	UZZZ2150	\$23.39	\$30.00	
55b	12/23/2002	RGLD	B	1000	12:49:41	23.3	23.37		MLCO	R	S	200	23.45	12:57:24	12:57:24		23.4	23.45	UZZZ2150	\$23.39	\$12.00	
56	12/23/2002	TSCO	B	600	10:43:39	37.47	37.5		MLCO	P	S	300	37.87	10:49:06	10:49:02		37.59	37.87	PFZZ5242	\$37.48	\$117.00	
57	12/26/2002	CSGE	B	1000	9:47:18	24.4	24.8		MLCO	P	S	1000	24.85	9:52:21	9:52:21		24.4	24.85	FJZZ7638	\$24.80	\$50.00	
58	12/26/2002	ERNB	S	650	15:11:09	7.03	7.11		MLCO	R	B	150	7.02	15:18:07	15:18:07		7.02	7.1	CBZZ5077	N/A	\$0.00	
59a	12/26/2002	GLFD	B	1000	10:46:37	3.3	3.35		MLCO	R	S	100	3.48	10:51:11	10:51:11		3.37	3.49	GLZZ3126	\$3.35	\$13.00	
59b	12/26/2002	GLFD	B	1000	10:46:37	3.3	3.35		MLCO	R	S	25	3.48	10:51:14	10:51:13		3.37	3.49	GLZZ3126	\$3.35	\$3.25	
59c	12/26/2002	GLFD	B	1000	10:46:37	3.3	3.35		MLCO	R	S	100	3.49	10:51:14	10:51:13		3.37	3.49	GLZZ3126	\$3.35	\$14.00	
60a	12/26/2002	GRMN	S	1000	12:41:44	29.95	29.96		MLCO	R	B	100	29.92	12:49:05	12:49:05		29.9	29.96	UNEZ7150	\$29.95	\$3.00	
60b	12/26/2002	GRMN	S	1000	12:41:44	29.95	29.96		MLCO	R	B	200	29.93	12:49:06	12:49:06		29.9	29.96	UNEZ7150	\$29.95	\$4.00	
60c	12/26/2002	GRMN	S	1000	12:41:44	29.95	29.96		MLCO	R	B	100	29.9	12:49:17	12:49:16		29.9	29.96	UNEZ7150	\$29.95	\$5.00	
61a	12/27/2002	CINF	S	660	13:34:50	37.76	37.8		MLCO	R	B	100	37.68	13:42:41	13:42:41		37.68	37.73	CIZZ7916	\$37.75	\$7.00	
61b	12/27/2002	CINF	S	660	13:34:50	37.76	37.8		MLCO	R	B	100	37.65	13:42:42	13:42:42		37.64	37.73	CIZZ7916	\$37.75	\$10.00	
61c	12/27/2002	CINF	S	660	13:34:50	37.76	37.8		MLCO	R	B	39	37.66	13:42:42	13:42:42		37.64	37.73	CIZZ7916	\$37.75	\$3.51	
61d	12/27/2002	CINF	S	660	13:34:50	37.76	37.8		MLCO	R	B	121	37.65	13:42:43	13:42:42		37.64	37.73	CIZZ7916	\$37.75	\$12.10	
62a	12/27/2002	ISCA	B	500	11:41:13	35.54	35.6		MLCO	P	S	100	35.74	11:48:21	11:47:26		35.7	35.71	YTZZ7073	\$35.58	\$16.00	
62b	12/27/2002	ISCA	B	500	11:41:13	35.54	35.6		MLCO	P	S	100	35.71	11:47:27	11:47:27		35.7	35.74	YTZZ7073	\$35.58	\$13.00	
63	12/30/2002	CSGE	B	700	14:18:17	24.6	24.65		MLCO	P	S	200	24.8	14:32:02	14:32:01		24.6	24.8	KJZZ2182	\$24.65	\$30.00	
64a	12/31/2002	CERG	S	1000	12:14:52	1.93	1.97		MLCO	R	B	500	1.92	12:19:44	12:19:43		1.92	1.97	XQMZZ946	\$1.93	\$5.00	
64b	12/31/2002	CERG	S	1000	12:14:52	1.93	1.97		MLCO	P	B	100	1.92	12:20:20	12:20:19		1.92	1.97	XQMZZ946	\$1.93	\$1.00	
65a	12/31/2002	CHFC	B	500	12:54:14	32.35	32.49		MLCO	R	S	100	32.509	13:03:01	13:03:00		32.37	32.51	SNZZ3599	N/A	\$0.00	
65b	12/31/2002	CHFC	B	500	12:54:14	32.35	32.49		MLCO	R	S	100	32.509	13:03:01	13:03:01		32.37	32.51	SNZZ3599	N/A	\$0.00	
66	12/31/2002	SPLN	S	100	12:28:50	1.03	1.04		MLCO	P	B	100	1.01	12:36:10	12:36:08		1.03	1.04	SNZZ3547	\$1.03	\$2.00	
67	12/31/2002	SUNW	B	1000	10:24:52	3.06	3.07		MLCO	P	S	1000	3.08	10:31:37	10:29:39		3.07	3.07	UEZZ5881	\$3.06	\$20.00	
Total P. Deposits																					\$1,706.04	

Total Restitution: \$1,706.04

Order Information										Trade Information										Restitution			
No.	Date	Issue	Order to B/S	Quantity	Time Received	Inside Bid at Receipt	Inside Ask at Receipt	Order ID	MFID	Capacity	B/S/X	Executed Quantity	Execution Price	Report Time	Execution Time	Center	Inside Bid at Execution	Inside Ask at Execution	MP BSeq	Staff's Adjustment Amount	Restitution Firm's Adjustment Amount	Additional Restitution Required	
1	7/1/2003	MRNQ	B	1000	14:08:53	10.28	10.3		MLCO	P	S	500	10.32	14:14:29	14:14:29		10.28	10.32	FCZZ5076	\$10.00	\$10.00	\$0.00	
3	7/2/2003	PRGX	B	1000	9:41:24	5.32	5.33		MLCO	P	S	500	5.37	9:45:56	9:45:55		5.34	5.37	UPZZ26432	\$20.00	\$20.00	\$0.00	
4	7/3/2003	DIOD	S	700	9:50:35	19.37	19.67		MLCO	R	B	100	19.32	9:54:39	9:54:38		19.32	19.51	BUZZ2244	\$5.00	\$5.00	\$0.00	
5	7/3/2003	HTCH	B	200	11:34:59	35.55	35.6		MLCO	P	S	100	35.71	11:38:31	11:38:31		35.65	35.75	FLZZ2283	\$11.00	\$11.00	\$0.00	
7a	7/7/2003	ESPD	S	900	14:07:37	19.7	19.73		MLCO	R	B	300	19.7	14:11:56	14:11:54		19.65	19.72	CPZZ26595				
7b	7/7/2003	ESPD	S	900	14:07:37	19.7	19.73		MLCO	R	B	100	19.66	14:11:57	14:11:56		19.64	19.72	CPZZ26595	\$8.00	\$8.00	\$2.00	
7c	7/7/2003	ESPD	S	900	14:07:37	19.7	19.73		MLCO	R	B	100	19.68	14:11:58	14:11:56		19.64	19.72	CPZZ26595	\$10.00	\$10.00	\$1.00	
7d	7/7/2003	ESPD	S	900	14:07:37	19.7	19.73		MLCO	R	B	100	19.61	14:12:09	14:12:08		19.61	19.64	CPZZ26595	\$9.00	\$9.00	\$1.00	
7e	7/7/2003	ESPD	S	900	14:07:37	19.7	19.73		MLCO	R	B	100	19.62	14:12:10	14:12:09		19.59	19.64	CPZZ26595	\$15.00	\$15.00	\$0.00	
10	7/8/2003	LGTO	B	1000	10:24:34	9.97	9.98		MLCO	P	S	500	10	10:29:27	10:29:27		9.99	10	URZZ26293	\$20.00	\$20.00	\$0.00	
11	7/8/2003	ROAD	S	1000	10:03:32	45.24	45.36		MLCO	P	B	500	45.16	10:13:38	10:13:37		45.15	45.25	LGZZ25687	\$40.00	\$40.00	\$0.00	
12a	7/9/2003	ASVT	S	500	11:25:00	9.72	9.75		MLCO	R	B	100	9.65	11:34:24	11:34:23		9.6	9.65	UNNZ5624	\$38.00	\$38.00	\$4.00	
12b	7/9/2003	ASVT	S	500	11:25:00	9.72	9.75		MLCO	P	B	300	9.63	11:36:03	11:36:03		9.63	9.64	UNNZ5624	\$4.00	\$4.00	\$0.00	
14	7/9/2003	RHND	B	100	12:24:01	6.79	6.81		MLCO	P	S	100	6.84	12:28:52	12:28:26		6.82	6.84	SQZZ24876	\$6.00	\$6.00	\$2.00	
16	7/10/2003	ASVT	S	300	14:17:32	9.12	9.14		MLCO	P	S	200	9.1	14:27:14	14:27:14		9.1	9.14	PRZZ27543	\$6.00	\$6.00	\$2.00	
17	7/10/2003	SCBI	B	400	13:08:29	21.24	21.3		MLCO	P	S	200	21.32	13:12:40	13:12:39		21.3	21.32	XPZZ24378	\$6.00	\$6.00	\$2.00	
18a	7/11/2003	EPX	B	1000	12:11:14	18.01	18.12		MLCO	R	S	200	18.14	12:19:15	12:19:14		18.14	18.21	YQZZ25137	\$48.00	\$48.00	\$12.00	
18b	7/11/2003	EPX	B	1000	12:11:14	18.01	18.12		MLCO	P	S	400	18.2	12:20:31	12:20:30		18.18	18.2	YQZZ25137				
21a	7/14/2003	YHOQ	B	400	10:46:37	31.6	31.64		MLCO	R	S	100	31.85	10:49:44	10:49:43		31.84	31.87	YRZZ27878	\$76.00	\$76.00	\$17.00	
21b	7/14/2003	YHOQ	B	400	10:46:37	31.6	31.64		MLCO	R	S	200	31.89	10:55:03	10:55:03		31.89	31.9	YRZZ27878	\$25.00	\$25.00	\$5.00	
21c	7/14/2003	YHOQ	B	400	10:46:37	31.6	31.64		MLCO	R	S	100	31.81	11:00:39	11:00:39		31.8	31.81	YRZZ27878	\$11.00	\$11.00	\$6.00	
22	7/15/2003	YHOQ	B	500	14:10:30	32.23	32.25		MLCO	R	S	500	32.29	14:23:19	14:23:19		32.28	32.29	SVZZ26823	\$3.00	\$3.00	\$0.00	
23a	7/16/2003	HCBK	S	500	10:14:19	26.34	26.48		MLCO	R	B	100	26.32	10:20:38	10:20:38		26.3	26.48	XGZZ27449	\$0.00	\$0.00	\$0.00	
23b	7/16/2003	HCBK	S	500	10:14:19	26.34	26.48		MLCO	R	B	100	26.31	10:20:39	10:20:39		26.3	26.48	XGZZ27449	\$11.00	\$11.00	\$6.00	
24	7/16/2003	LWSN	B	200	14:59:34	7.53	7.55		MLCO	P	S	100	7.56	15:03:40	15:03:39		7.54	7.57	PSZZ24494	\$0.00	\$0.00	\$0.00	
26	7/16/2003	THOI	S	1000	13:38:08	17.62	17.65		MLCO	P	B	500	17.54	15:46:09	15:46:08		17.54	17.59	ABZZ20779	\$45.00	\$40.00	\$5.00	
28	7/21/2003	YHOQ	B	100	11:17:32	30.94	30.99		MLCO	P	S	100	31.12	11:26:32	11:26:31		31.11	31.15	MOZZ26169	\$12.00	\$13.00	\$0.00	
30a	7/23/2003	RLSN	S	750	11:53:26	22.97	22.99		MLCO	R	B	100	22.91	12:03:40	12:03:39		22.91	22.93	ZLZZ27278	\$12.00	\$12.00	\$0.00	
30b	7/23/2003	RLSN	S	750	11:53:26	22.97	22.99		MLCO	R	B	100	22.91	12:03:40	12:03:39		22.91	22.93	ZLZZ27278	\$12.00	\$12.00	\$0.00	
31	7/23/2003	CSNX	S	1000	13:48:39	25.42	25.5		MLCO	P	B	500	25.41	13:54:17	13:54:17		25.4	25.5	LAZZ23286	\$3.00	\$5.00	\$0.00	
32	7/25/2003	HTCH	S	500	15:08:11	28.81	28.86		MLCO	P	B	400	28.74	15:12:36	15:12:35		28.74	28.77	XRZZ25385	\$28.00	\$28.00	\$0.00	
33	7/25/2003	LWSN	S	500	10:22:40	7.17	7.25		MLCO	R	B	400	7.13	10:26:39	10:26:38		7.13	7.21	ALZZ23846	\$10.00	\$16.00	\$0.00	
34	7/29/2003	SNPS	B	200	14:37:13	60.57	60.63		MLCO	P	S	200	60.75	14:40:53	14:40:52		60.69	60.75	ZQZZ27822	\$20.00	\$24.00	\$0.00	
35	7/29/2003	RLSN	S	408	13:37:22	22.65	22.69		MLCO	P	B	108	22.63	13:45:41	13:45:41		22.59	22.66	XGZZ27278	\$3.24	\$2.16	\$1.08	
36	8/4/2003	CVTX	B	250	10:36:18	26.36	26.38		MLCO	R	S	250	26.4	10:45:08	10:45:08		26.3	26.49	MOZZ27619	\$17.50	\$3.00	\$12.50	
37	8/6/2003	AZPN	B	500	13:21:54	3.25	3.29		MLCO	P	S	200	3.3	13:37:36	13:37:36		3.29	3.3	TFZZ27200	\$2.00	\$2.00	\$0.00	
38a	8/7/2003	EXEL	B	1000	15:37:52	6.33	6.35		MLCO	R	S	400	6.37	15:42:36	15:42:36		6.33	6.37	ZTFZZA106				
38b	8/7/2003	EXEL	B	1000	15:37:52	6.33	6.35		MLCO	R	S	400	6.38	15:42:37	15:42:37		6.33	6.4	ZTFZZA106				
38c	8/7/2003	EXEL	B	1000	15:37:52	6.33	6.35		MLCO	R	S	100	6.38	15:42:38	15:42:38		6.33	6.4	ZTFZZA106	\$32.00	\$23.00	\$9.00	
40	8/8/2003	COST	B	400	10:48:08	29.15	29.16		MLCO	P	S	400	29.18	10:54:19	10:54:18		29.17	29.18	DRZZ27865	\$4.00	\$8.00	\$0.00	
41	8/8/2003	PDI	B	200	13:48:44	23.99	24.15		MLCO	P	S	100	24.25	13:53:38	13:53:38		24.08	24.25	XQZZ27619	\$7.00	\$10.00	\$0.00	
42	8/8/2003	SLAB	B	500	14:53:09	33.75	33.79		MLCO	P	S	400	33.82	15:02:14	15:02:13		33.75	33.83	RRZZ26100	\$28.00	\$12.00	\$16.00	
43	8/11/2003	CBSS	B	600	15:41:19	33.19	33.23		MLCO	P	S	100	33.24	15:45:03	15:45:03		33.21	33.25	HGZZ24413	\$1.00	\$1.00	\$0.00	
44	8/12/2003	ACAS	B	600	9:53:14	24.62	24.67		MLCO	R	S	300	24.68	9:56:56	9:56:56		24.63	24.68	XGZZ26885	\$6.00	\$3.00	\$3.00	
45	8/12/2003	UTSI	B	256	11:52:22	38.95	38.97		MLCO	P	S	156	39.29	12:03:01	12:03:00		39.25	39.31	MCZZ26885	\$53.04	\$49.92	\$3.12	
46	8/13/2003	CFBN	S	500	13:45:55	29.65	29.7		MLCO	R	B	200	29.63	13:55:56	13:55:56		29.55	29.66	GTZZ23846	\$8.00	\$6.00	\$2.00	
47	8/13/2003	TCBI	B	200	14:04:15	12.12	12.24		MLCO	P	S	200	12.25	14:09:37	14:09:36		12.22	12.25	DAZZ22261	\$6.00	\$2.00	\$0.00	
48	8/14/2003	UTSI	B	200	12:07:48	41.6	41.61		MLCO	P	S	100	41.63	12:19:09	12:19:08		41.6	41.66	ZQZZ24201	\$6.00	\$2.00	\$4.00	
49	8/14/2003	ATRS	B	1000	12:15:31	20.3	20.37		MLCO	P	S	900	20.38	12:22:20	12:22:19		20.35	20.4	DAZZ22771	\$3.00	\$9.00	\$0.00	
50	8/15/2003	GTM8	B	1000	13:01:45	13.95	14.01		MLCO	R	S	500	14.05	13:05:25	13:05:25		13.95	14	XGZZ261	\$25.00	\$20.00	\$5.00	
51	8/15/2003	SPNT	B	500	12:01:31	33.15	33.33		MLCO	P	S	300	33.36	12:09:13	12:09:13		33.23	33.36	ZBZZ23205	\$9.00	\$9.00	\$0.00	

Order Information										Trade Information										Restitution			
No.	Date	Issue	Order to B/S	Quantity	Time Received	Inside Bid at Receipt	Inside Ask at Receipt	Order ID	MP/B	Capacity	B/S/X	Executed Quantity	Execution Price	Report Time	Execution Time	Centre	Inside Bid at Execution	Inside Ask at Execution	MP BSeq	Staff's Adjustment Amount	Firm's Adjustment Amount	Additional Restitution Required	
52	8/18/2003	EXBD	B	500	15:28:59	45.11	45.15	[REDACTED]	MLCO	P	S	400	45.17	15:32:55	15:32:55		45.12	45.17	TDZ23391	\$0.00	\$8.00	\$0.00	
53	8/18/2003	VRTS	B	800	14:30:42	32.02	32.04		MLCO	P	S	800	32.06	14:34:47	14:34:46		32.05	32.06	UDZ26318	\$24.00	\$16.00	\$8.00	
54	8/19/2003	APCC	B	500	10:26:09	18.39	18.44		MLCO	P	S	200	18.45	10:33:21	10:33:20		18.43	18.45	WKZ23247	\$8.00	\$2.00	\$0.00	
55	8/21/2003	SLAB	S	1000	14:38:53	42.68	42.79		MLCO	P	B	900	42.63	14:43:50	14:43:45		42.59	42.65	AZZ24375	\$10.00	\$45.00	\$0.00	
57	8/22/2003	CRBE	S	600	10:09:40	16.51	16.52		MLCO	R	B	100	16.45	10:17:31	10:17:31		16.43	16.48	PRZ23184	\$6.00	\$6.00	\$0.00	
58	8/22/2003	GILD	B	300	14:33:57	64.08	64.11		MLCO	P	S	300	64.21	14:38:35	14:38:34		64.16	64.26	NBZ23203	\$34.00	\$30.00	\$4.00	
59	8/26/2003	EVOL	S	200	13:00:47	8.27	8.3		MLCO	P	B	200	8.25	13:08:00	13:07:59		8.25	8.29	XZZ20005	\$3.00	\$4.00	\$0.00	
60	8/27/2003	NWRE	S	400	13:00:29	18.64	18.69		MLCO	P	B	100	18.56	13:08:57	13:08:57		18.56	18.62	DDZ24411	\$8.00	\$8.00	\$0.00	
62	8/29/2003	MLNM	S	1000	13:37:11	13.89	13.9		MLCO	R	B	500	13.87	13:50:03	13:50:02		13.87	13.9	BBZ23565	\$10.00	\$10.00	\$0.00	
63a	8/29/2003	OVTI	S	1000	11:56:38	43.49	43.53		MLCO	R	B	200	43.41	12:00:14	12:00:14		43.4	43.51	SDZ23298				
63b	8/29/2003	OVTI	S	1000	11:56:38	43.49	43.53		MLCO	R	B	100	43.41	12:00:15	12:00:14		43.4	43.51	SDZ23298				
63c	8/29/2003	OVTI	S	1000	11:56:38	43.49	43.53		MLCO	R	B	100	43.41	12:00:15	12:00:14		43.4	43.51	SDZ23298	\$24.00	\$32.00	\$0.00	
64	8/29/2003	PSFT	B	200	14:17:03	18.11	18.12		MLCO	P	S	200	18.13	14:25:54	14:25:53		18.12	18.14	RYM22184	\$2.00	\$2.00	\$0.00	
65	9/3/2003	ADVP	S	500	10:35:05	46.96	47		MLCO	P	B	500	46.97	10:39:24	10:39:23		46.97	47.01	YBZ26110	\$5.00	\$5.00	\$0.00	
66	9/3/2003	AVID	S	600	9:30:29	51.5	51.65		MLCO	P	B	500	51.41	9:37:32	9:36:06		51.41	51.55	UZZ24242	\$79.00	\$95.00	\$0.00	
67	9/3/2003	PSFT	B	1000	11:31:19	19.31	19.32		MLCO	P	S	1000	19.37	11:35:12	11:35:12		19.36	19.37	DZZ23559	\$90.00	\$90.00	\$0.00	
68	9/4/2003	RSLN	S	750	10:53:04	23.01	23.03		MLCO	P	B	450	22.95	10:58:18	10:58:17		22.95	23	FAZ23771	\$24.50	\$27.00	\$0.00	
70	9/8/2003	AMAT	S	100	14:38:52	22.22	22.23		MLCO	P	B	100	22.16	14:42:24	14:42:23		22.17	22.18	ZMZZ4078	\$6.00	\$6.00	\$0.00	
72	9/12/2003	PSFT	B	500	14:42:28	18.98	18.99		MLCO	P	S	500	19.05	14:47:09	14:47:09		19.04	19.05	APZ23566	\$26.00	\$30.00	\$0.00	
73	9/23/2003	CSBK	S	600	13:31:28	24.3	24.35		MLCO	P	B	100	24.15	13:35:11	13:35:11		24.15	24.35	BZZ26972	\$1.00	\$15.00	\$0.00	
74	9/30/2003	SCHL	S	200	10:22:30	28.56	28.59		MLCO	P	B	200	28.49	10:28:09	10:28:09		28.49	28.55	UDZ20075	\$12.00	\$14.00	\$0.00	

Total Restitution: \$993.28

Total Restitution Provided by Firms: \$993.08

Additional Restitution Required from Firms: \$135.70*

CORRECTIVE ACTION STATEMENT

This Corrective Action Statement is submitted by the Respondent. It does not constitute factual or legal findings by NASD, nor does it reflect the views of NASD, or its staff.

The Respondent, Merrill Lynch, Pierce, Fenner & Smith Incorporated, maintains policies and procedures designed to achieve compliance with NASD rules and policies, including NASD Conduct Rules 2110 and 2320. The Respondent understands and appreciates its obligations under these Conduct Rules and is committed to providing each client order with the most favorable prices reasonably available in the market.

The Respondent regularly evaluates the quality of executions provided to client orders and has dedicated significant resources to this effort, including an automated best execution review system (BEAMS) that monitors individual orders. In response to alerts generated by BEAMS, the Respondent evaluates execution prices provided to client orders and makes favorable price adjustments when necessary.

In addition, the Respondent regularly evaluates the market centers to which it directs client orders for execution. The Respondent will continue to select venues that consistently provide high quality executions and deliver excellent support and service. The Respondent endeavors to carefully and objectively evaluate the quality of executions offered by competing market centers so that its routing decisions are principled, well-reasoned and generate high levels of client satisfaction. In this regard, the Respondent's Best Execution Committee meets regularly to discuss routing arrangements and execution statistics, and to evaluate current systems and technology used to handle and execute client orders.

The Respondent will continue to rigorously evaluate the quality of executions provided to client orders and will regularly remind its trading personnel of the fundamental obligation to deliver best execution.