

Individual investors with a gripe against a broker can take the big guys to arbitration — and they have a decent chance of winning



How to tell if you have a case

Eliot Spitzer's landmark agreement with Merrill Lynch & Co. to settle an investigation into its research practices may make it easier for investors to recover money from the company.

The big question now is, do you have a case? That depends a great deal on your individual circumstances, legal experts say.

Mark Astarita, partner in the New York law firm Beam & Astarita and founder of the Securities Law Home Page, offers this sampling of the most common claims customers file against brokerages.

■ **Churning:** The customer alleges a broker purchased and sold securities solely to generate commissions, without regard to the customer's investment objectives or goals.

■ **Unauthorized trading:** The customer alleges a broker entered transactions into the account without the customer's knowledge or approval.

Customers who raise an allegation of unauthorized trading months or years after the trade has occurred usually do not

BY SAM ALI
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So, you lost a ton of money in the stock market listening to some hotshot talking head blather on about Internet stocks and now you want your money back.

What can you do?

Many investors who feel they have been victimized by bad brokers automatically assume their only option is to go through a lengthy and expensive court battle.

But the fact is, you can't go to court. You're not allowed to sue your broker or analyst. You waive that right when you open your brokerage account. Most investment fraud and abuse complaints are handled exclusively through arbitration. It's a type of dispute resolution in which a single arbitrator or, more often, a three-person panel hears arguments from both sides and then decides if an award is in order.

In 1987, the U.S. Supreme Court upheld the validity of brokerage-company contracts that require disputes between brokers and clients to be settled through arbitration.

The ruling actually has been a boon for investors because it gives them a faster and less expensive way to recover losses stemming from brokerage misconduct and fraud.

"The big advantage of arbitration is, once it is rendered, it is final," said Michael Hume, a senior litigation consultant at the National Association of Securities Arbitration Counselors. "It cannot be appealed, whereas in court you can be tied for up years."

From start to finish, the process takes up to 18 months, compared with three to five years in the court system. Arbitration filing fees range from about \$30 for a small case in which the amount in dispute is less than \$1,000, to \$1,800 for cases in which the amount is more than \$5 million.

Even better news for small investors: The win ratio is pretty good. More than 60 percent of cases settled in arbitration result in monetary awards to investors, legal experts said.

Still, if you plan on joining the estimated 7,300 disgruntled investors

Getting payback

The nuts and bolts

■ **How to file an arbitration claim:** The first step is to find out which regulatory organization has jurisdiction. There are several organizations that handle securities arbitration hearings. About 75 percent of the cases are heard by the National Association of Securities Dealers. Self-regulation organizations that handle cases include the New York, American, Pacific, Cincinnati and Philadelphia stock exchanges, as well as the Chicago Board Options Exchange and the Municipal Securities Rulemaking Board. In many cases, you can choose the forum you prefer as long as the brokerage firm is a member of that organization.

■ **How to find an attorney:** You can contact the Public Investors Arbitration Bar Association at (888) 621-7484 or visit its Web site, www.plaba.org. You also can contact the National Association of Securities Arbitration Counselors at (877) GO-NASAC or visit its Web site at www.nasac.com for a referral and a free consultation.

In addition, several law schools in New York and one in Pennsylvania provide legal representation through securities arbitration clinics. These clinics help parties who have smaller claims and who are unable to hire a lawyer. You can contact any of the arbitration clinics at the following telephone numbers:

- Brooklyn Law School, Securities Arbitration Clinic, (718) 780-7994
- State University of New York at Buffalo School of Law, Legal Assistance Program, (716) 645-2167
- Fordham University School of Law, Securities Arbitration Clinic, (212) 636-7231
- Pace University School of Law, John Jay Legal