

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

**MERRILL LYNCH, PIERCE, FENNER
& SMITH INCORPORATED,**)
)
)
 Plaintiff,)
)
)
 vs.)
)
 EUGENE LEOVITZ AND)
 KATE LEOVITZ,)
)
 Defendants.)

Case No. 03-2468-CM

ORDER

This matter comes on for consideration by the Court upon the Application of Christian E. Toman for an order confirming an arbitration award.

The Court finds that notice of the Application was duly served upon the defendants and their counsel, and that the Court has jurisdiction over the subject matter and over the defendants in this proceeding.

The Court further finds that a duly appointed panel of arbitrators entered an award in an arbitration proceeding before the National Association of Securities Dealers Dispute Resolution, Inc. ("NASD") captioned on its docket as *Eugene Lebovitz and Kate Lebovitz, Claimants, v. Merrill Lynch, Pierce, Fenner & Smith Incorporated and Christian E. Toman, Respondents*, NASD Dispute Resolution Arbitration Number 03-05520; and on August 26, 2004, NASD served that award on the parties.

Paragraph 7 of that award recommended the expungement of all reference to the arbitration from respondent Christian E. Toman's records maintained by the NASD Central Registration Depository.

The Court finds that no order vacating, modifying or otherwise correcting the arbitration award was entered and no timely motion to vacate, modify or correct the arbitration award was filed by the claimants.

IT IS THEREFORE ORDERED that the arbitration award (and particularly paragraph 7 thereof) be and is hereby confirmed.

s/ Carlos Murguia
CARLOS MURGUIA
United States District Judge