Merrill to Pay $1.25 Million for Failing to Hedge Client's Stock

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By Bradley Keoun

Merrill Lynch & Co. must pay at least $1.25 million to an entrepreneur who said her broker failed to protect the restricted shares she received when she sold her startup company to computer maker Dell Inc. in 1999. Shari Nolan, 46, of Oakhurst, California, lost at least $9 Million as Dell's stock price fell over the next year, according to her claim, filed in March 2002 with securities-industry regulator NASD.
The founder of ConvergeNet Technologies Inc. said her Merrill broker, Philip Hurner, had promised to use stock options to guard against a drop in the share price until a selling restriction expired. Merrill also must pay interest on the award, according to the July 21 ruling by the NASD arbitration panel in San Francisco.
The panel dismissed claims against Hurner. In a statement, Mark Herr, a spokesman for New York-based Merrill, said hedging was prohibited during the “lock-up period'” of the restricted shares. “Given this, it is difficult to fathom the outcome of this case”, Herr said. Richard Roth, an attorney for Nolan, said interest on the award may total more than $600,000.

--Editor: Todd.

Story illustration: For Merrill's stock price, see
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