

Merrill hit by more than \$1.25 million arbitration award over Dell hedge

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NEW YORK (MarketWatch) -- An arbitration panel recently issued an award worth more than \$1.25 million to an investor who alleged that Merrill Lynch & Co. (MER) failed to hedge her brokerage account's position in Dell Inc. (DELL) shares.

The investor, Shari Nolan, had said that she received restricted Dell stock from Dell's 1999 acquisition of ConvergeNet Technologies Inc., a San Jose technology company that was founded by Nolan. She opened an account with a Merrill stockbroker who told her that Merrill could preserve the value of her Dell shares through hedging instruments such as options, arbitration documents allege.

But Nolan's lawyer, Richard Roth, said Merrill failed to hedge Nolan's Dell stake. The Dell shares went down in value and Nolan eventually moved her brokerage account elsewhere. A three-arbitrator panel organized by the National Association of Securities Dealers earlier this month awarded Nolan \$1.25 million, plus interest. Roth estimated the value of the total award could come close to \$2 million.

A Merrill spokesman, Mark Herr, noted that the panel didn't rule against the broker. "The panel dismissed the allegations against the financial advisor, denied Ms. Nolan's claim for punitive damages and refused to award her 90% of her putative losses," Herr said in a statement. "Ms. Nolan claimed we should have hedged her Dell stock, but as she and we know, hedging was prohibited during the lock-up period, so there was no hedging anyone could have done on those shares. Given this, it is difficult to fathom the outcome of this case."