

Original

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

U.S. DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
**FILED**  
OCT 12 2001  
CLERK, U.S. DISTRICT COURT  
By Deputy *[Signature]*

SECURITIES AND EXCHANGE  
COMMISSION,

Plaintiff,

v.

FUNDING RESOURCE GROUP  
a/k/a FRG TRUST, et al.,

Defendants.

Civil Action No. 3:98-CV-2689-M

MICHAEL J. QULLING, as Receiver  
for Hammersmith Trust, LLC,  
Hammersmith Trust, Lt., Microfund, LLC,  
and B. David Gilliland,

Plaintiff,

v.

MERRILL LYNCH PIERCE FENNER  
& SMITH, INC.,

Garnishee.

Civil Action No. 3:01-CV-0177-M

OCT 15 2001  
U.S.C.

**ORDER ACCEPTING FINDINGS AND RECOMMENDATION  
OF THE UNITED STATES MAGISTRATE JUDGE**

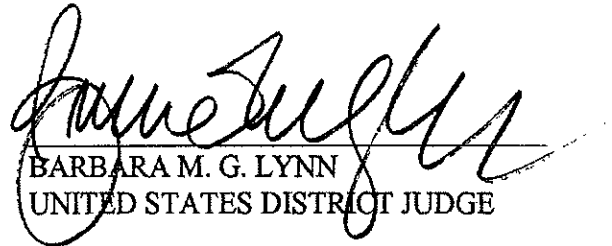
After making an independent review of the pleadings, files and records in this case, and the Findings, Conclusions and Recommendation of the United States Magistrate Judge, the Court finds that the Findings and Conclusions of the Magistrate Judge are correct and they are accepted as the Findings and Conclusions of the Court.

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The Court notes Merrill Lynch's objection that some portion of the diminution in the account's value was attributable to nonresident taxes imposed on the account without Merrill Lynch's involvement. If that were true, it may have entitled Merrill Lynch to have the Court reduce the amount of the award, but it was Merrill Lynch's obligation to offer admissible evidence of the fact and amount of those taxes. Since it did not do so either here or before the Magistrate Judge, it is not entitled to a reduction.

IT IS, THEREFORE, ORDERED that the Findings, Conclusions and Recommendation of the United States Magistrate Judge are accepted.

SIGNED this 12 day of October, 2001.

  
BARBARA M. G. LYNN  
UNITED STATES DISTRICT JUDGE