

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between

MERRILL LYNCH, PIERCE, FENNER  
SMITH, INC.

Claimant(s)

and

JOSEPH A. MANSOUR

Respondent(s)

Case No. 88-02169

CASE SUMMARY

In a claim filed with the NASD on or about July 7, 1988, Claimant Merrill Lynch, Pierce, Fenner & Smith, Inc. ("Merrill Lynch") alleged that Respondent Joseph A. Mansour ("Mansour") began trading options in his securities account maintained at Merrill Lynch. On October 19, 1987 Merrill Lynch alleged that Mansour sustained substantial financial losses and on October 20 and for several days thereafter, Mansour's account was liquidated pursuant to the terms of the option account agreement executed by Mansour. Merrill Lynch alleged that Mansour's account had a deficit equity of \$248,793.71 after all positions in Mansour's account were liquidated and Mansour allegedly made no efforts to satisfy this indebtedness.

Mansour alleged that he was not made aware of the significance of the documents he signed and did not read them. Mansour alleged he was never told of the highly speculative nature of the transactions he was doing. Mansour additionally maintained that he was unable to secure the help of brokers from Merrill Lynch to assist in the liquidation of his account on October 19, 1987 in order to satisfy a significant margin call. Mansour counterclaimed against Merrill Lynch and asserted that his losses were due to the failure of Merrill Lynch to advise Mansour of the speculative nature of the transactions in which he engaged and the failure to aid Mansour in the liquidation of his account between October 13 and 16, 1987.

RELIEF REQUESTED

Merrill Lynch requested an award of the debit balance in Mansour's account in the sum of \$248,793.71, plus interest, costs, expenses and attorneys' fees. Mansour requested dismissal of the claim in its entirety plus an award on his counterclaim in the sum of \$500,000, plus interest, costs, expenses and attorneys' fees. Merrill Lynch requested that the counterclaim be dismissed.

### AWARD

On Thursday, February 8, 1990 in New Orleans, Louisiana during a hearing lasting three (3) sessions, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed on July 6, 1988 by J. David Montague on behalf of Claimant Merrill Lynch, Pierce, Fenner & Smith, Inc. Respondent Joseph A. Mansour did not execute a submission to arbitration. He did however, answer the claim, appear at the hearing and give testimony on February 8, 1990. By virtue of these facts, the panel finds that Mansour submitted to the jurisdiction of the NASD and that he will be bound by the panel's decision on all issues submitted for determination.

The arbitration panel, having considered the pleadings, the testimony, the evidence presented at the hearing, and the parties post-hearing memoranda and submissions has decided in full and final resolution of the issues submitted for determination as follows:

#### MERRILL LYNCH'S CLAIM

1. The claim asserted against Mansour by Merrill Lynch shall be and is hereby dismissed in its entirety;

#### MANSOUR'S COUNTERCLAIM

2. Merrill Lynch is liable for and shall pay to Mansour, without interest, the sum of One Hundred Fifty Four Thousand Eighty Seven Dollars and No Cents(\$154,087.00);

3. The parties shall each bear their respective costs, expenses and attorneys' fees incurred in this matter; and

4. Pursuant to Section 43(c) of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall retain as forum fees, the \$750.00 filing fee previously deposited with the NASD by the Claimant Merrill Lynch. Additional forum fees are assessed against Merrill Lynch in the amount of \$750.00 and additional forum fees are assessed against Mansour in the amount of \$750.00. Furthermore, Merrill Lynch is assessed \$500.00 pursuant to Section 44 of the NASD Code which non-refundable fee was not submitted to the NASD, but should have been, upon initiation of this arbitration matter.

By the Panel

Dated: July 25, 1990

/S/ Dr. Ron Christner  
Presiding Chair

Dated: July 10, 1990

/S/ Rupert Surcouf, Jr.

Dated: July 11, 1990

/S/ Michael H. Nelson

Date Served: July 31, 1990