

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

James Polish

vs.

91-02786

Name of Respondents

Merrill Lynch, Pierce, Fenner & Smith, Inc.
Barry S. Rochlin

REPRESENTATION

For Claimant: Claimant represented himself.

For Respondents: Maren E. Nelson, Esq., Morrison & Foerster, Los Angeles, California.

CASE INFORMATION

Statement of Claim filed: September 6, 1991

Claimant's Submission Agreement signed on: August 27, 1991

Joint Statement of Answer filed by Respondents on: October 11, 1991

Respondents' Submission Agreements signed as follows:

Merrill Lynch - November 4, 1991

Barry Rochlin - September 20, 1991

HEARING INFORMATION

Hearing Date/Sessions: March 18, 1992 (2 sessions)

Hearing Location: Los Angeles, California

CASE SUMMARY

Claimant alleged negligence, breach of fiduciary duty and breach of contract with respect to his investments in Harcourt Brace preferred stock and National Gypsum debentures.

Respondents denied all allegations, and asserted that Claimant's claims are barred by the doctrines of comparative negligence, assumption of the risk, and ratification, as well as by failure to mitigate damages.

RELIEF REQUESTED

Claimant requested damages of at least \$18,000 plus interest and costs of arbitration.

Respondents requested dismissal of all claims.

OTHER ISSUES CONSIDERED & DECIDED

The parties have agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award may be entered. In either case, the parties have agreed to receive conformed copies of the Award while the originals remain on file with the NASD.

AWARD

After considering the pleadings, the testimony and the evidence presented at the hearing, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. All claims brought by Claimant are dismissed.
2. The parties shall each bear their respective costs including attorneys' fees.

OTHER

This claim was originally filed in the Municipal Court of California for the County of Los Angeles, Los Angeles Judicial District, Case #91 X00316, and was subsequently ordered to arbitration pursuant to stipulation of the parties under date of August 21, 1991.

FORUM FEES

Pursuant to Section 43c of the Code of Arbitration Procedure, the following forum fees are assessed:

Claimant shall pay forum fees of \$600 (2 sessions @ \$300/session), and shall be credited with \$300 previously deposited, leaving a balance due of \$300.

Fees are payable to the National Association of Securities Dealers, Inc.

ARBITRATION PANEL

<u>Name</u>	<u>Public/Industry</u>
Chet Olsen	Public

Arbitrator's Signature


Chet Olsen

Served April 2, 1992

Date of Decision: _____