

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Name of Claimants

Donald P. Steve and Marjorie A. Steve

92-01525

Name of Respondents

Merrill Lynch Pierce Fenner & Smith Inc  
Joseph N. LaHood, Jr

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**REPRESENTATION**

For Claimant: Anthony V. Trogan, Jr., Esq. of the law firm of Weisman, Trogan, Young and Schloss, P.C.

For Respondents: V. James Mann, Esq. of Merrill Lynch Pierce Fenner & Smith.

**CASE INFORMATION**

Statement of Claim filed: May 5, 1992.

Claimant's Submission Agreement signed on: April 26, 1992.

Joint Statement of Answer filed by Respondents, Merrill Lynch, Pierce, Fenner & Smith, Inc. and Joseph N. LaHood on: July 1, 1992.

Respondent, Merrill Lynch, Pierce, Fenner & Smith, Inc.'s Submission Agreement signed on: June 30, 1992.

Respondent, Joseph LaHood's Submission Agreement signed on: June 15, 1992.

**HEARING INFORMATION**

Pre-Hearing Conference: January 6, 1993, 1 session

Hearing Date(s)/Sessions: February 26, 1993, 2 sessions  
May 10, 1993, 2 sessions

Hearing Location: American Arbitration Association in Southfield, Michigan.

Respondents further maintained that any losses incurred by Claimants resulted from their own negligence in failing to reasonably monitor, manage and handle their own affairs and, in addition, that the Claimants expressly ordered, approved, authorized, participated in and ratified the acts and transactions complained of and upon which recovery is sought.

#### **RELIEF REQUESTED**

Claimants requested damages in the amount of \$84,000 as out-of-pocket loss plus interest at 12%; all costs; attorney fees; exemplary and punitive damages; RICO damages and rescission of all transactions.

Respondents requested that the Statement of Claim be dismissed in its entirety, with costs assessed against Claimants.

#### **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.

Claimants asserted a Motion to Strike on February 2, 1993. The Panel denied Claimant's motion on February 22, 1993.

Respondents asserted a Motion to Dismiss on February 19, 1993. The Panel denied the Respondent's motion on February 23, 1993.

#### **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. Respondents, Merrill Lynch, Pierce, Fenner & Smith, Inc. and Joseph N. LaHood, Jr. are hereby jointly and severally liable and shall pay to the Claimants the amount of \$60,000.00 (Sixty Thousand Dollars and 00/xx). This amount is inclusive of interest.
2. The claim for punitive damages is hereby denied.
3. Each party shall bear their respective costs of this action, including attorney's fees except that Merrill Lynch is hereby directed to re-imburse to Claimants the amount of \$950.00, Claimants previously deposited with the NASD.

**FORUM FEES**

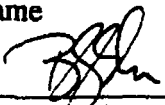
Pursuant to Section 43(c) of the Code of Arbitration Procedure, the following Forum Fees are assessed.

\$300.00	Pre-hearing Conference.
\$150.00	Non-refundable filing fee.
\$2,000.00	(4 sessions x \$500.00).

**Forum Fees Assessed Against:**

1. Total forum fees in the amount of \$2,450.00 are hereby assessed against Merrill Lynch.
2. As directed above, Merrill Lynch shall re-imburse to Claimants the sum of \$950.00. Merrill Lynch is directed to pay the balance of \$1,500.00 to the NASD, Inc.

**Concurring Arbitrator's Signature  
Name**

  
\_\_\_\_\_  
Barry Goldman, Esq.

**Public Chairperson**

**Date of Decision:** June 10, 1993

**FORUM FEES**

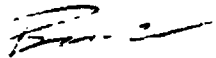
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\_\_\_\_\_  
Brace K. Case, Esq.

Industry Arbitrator

Date of Decision: June 10, 1993

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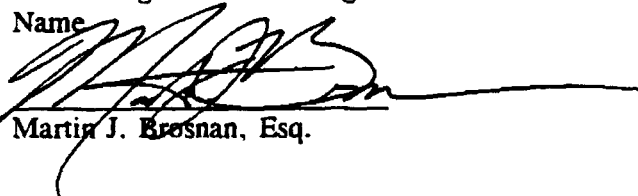
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Concurring Arbitrator's Signature

Name



Martin J. Brosnan, Esq.

Public Arbitrator

Date of Decision: June 10, 1993