

**N.A.S.D. AWARD**

**NATIONAL ASSOCIATION OF SECURITIES DEALERS**

In the Matter of the Arbitration Between

**Name of Claimant(s)**

Calvin D. Shoemaker and  
Marcelle Shoemaker JTWROS

NASD Arbitration  
No. 92-02044

**Name of Respondent(s)**

Merrill Lynch, Pierce, Fenner & Smith, Inc.

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**REPRESENTATION**

For Claimants: Calvin D. Shoemaker, Los Angeles, California

For Respondent: Nicholas R. Piccininni, Esq., Merrill Lynch, Pierce, Fenner &  
Smith, Inc., New York, New York

**CASE INFORMATION**

Statement of Claim filed: June 18, 1992

Claimants' Submission Agreement signed: July 9, 1992

Statement of Answer filed by Respondent: August 7, 1992

Respondent's Submission Agreement signed: August 7, 1992

### **HEARING INFORMATION**

Pre-Hearing Conference: March 25, 1993 (one session)  
Hearing Date(s)/Sessions: April 1, 1993 (two sessions)  
Hearing Location: Los Angeles, California

### **CASE SUMMARY**

Claimants alleged that, on March 30, 1992, Respondent prematurely disseminated the anticipated downgrading of its research report on Intelligent Electronics, Inc. (INEL) common stock. Claimants also alleged inappropriate moves on INEL within Merrill Lynch prior to Claimants' sell order placement, resulting in losses in Claimants' account.

Respondent denied Claimants' allegations of wrongdoing and asserted affirmative defenses.

### **RELIEF REQUESTED**

Claimants requested basic damages of \$9,100.00, plus treble and punitive damages, bringing Claimants' total requested damages to \$573,300.00.

Respondent requested that the Statement of Claim be dismissed in its entirety and that Respondent be awarded its costs and attorneys' fees.

### **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 National Association of Securities Dealers, Inc. (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 by Claimants, including the claim for punitive damages, are dismissed.
2. The parties shall each bear their respective costs including attorney's fees.


### **FORUM FEES**

Pursuant to Section 43c of the Code of Arbitration Procedure, the NASD shall retain the filing fee and hearing session deposit previously deposited by the Claimants. No additional forum fees are assessed.

### **ARBITRATORS**

<u>Name</u>	<u>Public/Industry</u>
James S. Munroe, Sr., Esq.	Public Arbitrator
David Menaker	Public Arbitrator
John P. McShane	Industry Arbitrator

### **Concurring Arbitrators' Signatures**

  
James S. Munroe, Sr., Esq.

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David Menaker

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John P. McShane

Date of Decision: April 1, 1993  
Date Served: 04/29/93

of the issues submitted for determination as follows:

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<u>Name</u>	<u>Public/Industry</u>
James S. Munroe, Sr., Esq.	Public Arbitrator
David Menaker	Public Arbitrator
John P. McShane	Industry Arbitrator

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James S. Munroe, Sr., Esq.

David Menaker  
\_\_\_\_\_  
David Menaker

\_\_\_\_\_  
John P. McShane

Date of Decision: 4/22/93

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### **ARBITRATORS**

Name \_\_\_\_\_ Public/Industry \_\_\_\_\_

Public Arbitrator  
Public Arbitrator  
Industry Arbitrator

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John P. McShane

Date of Decision: 4-1-93