

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Name of Claimant

John Stephens

vs.

NASD #93-00173

Name of Respondents

Merrill Lynch, Pierce, Fenner & Smith, Inc.  
David A. Mendoza

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**REPRESENTATION**

For Claimant: Irving Pfeffer, Esq., San Francisco, California

For Respondents: Thomas L. Taylor, III, Esq., Jones, Bell, Simpson & Abbott,  
Los Angeles, California

**CASE INFORMATION**

Statement of Claim filed: January 18, 1993

Claimant's Submission Agreement signed: January 5, 1993

Joint Statement of Answer filed: March 25, 1993

Respondents' Submission Agreements signed on:

Merrill Lynch: March 23, 1993

David Mendoza: March 23, 1993

## HEARING INFORMATION

Hearing Date/(Sessions): January 14, 1994 - 2 sessions

Hearing Location: San Francisco, California

## CASE SUMMARY

Claimant alleged unauthorized trading and breach of fiduciary duty with respect to investments in common stocks.

Respondents denied the allegations, and asserted that all trades had been accomplished with Claimant's consent and in accordance with Claimant's instructions.

## RELIEF REQUESTED

Claimant requested compensatory damages of \$21,000.33 plus interest, punitive damages, attorneys' fees and costs of arbitration.

Respondents requested dismissal of all claims and an award of attorneys fees' and costs of arbitration.

## 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 asserted against Respondent David A. Mendoza are dismissed in their entirety.
2. Respondent Merrill Lynch, Pierce, Fenner & Smith is liable for and shall pay to Claimant the sum of \$1,500.

3. The claim for punitive damages is dismissed.
4. The parties shall each bear their respective costs including attorneys' fees.

### FORUM FEES

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the NASD shall retain the \$120 non-refundable filing fee. Forum fees are assessed as follows:

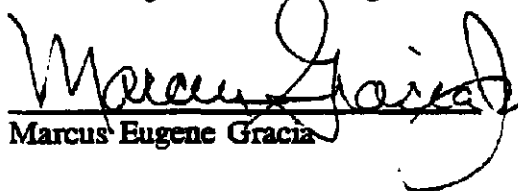
Total forum fees;	
2 sessions @ \$400/session =	\$800
Claimant's one-half share	\$400
Credit for hearing session deposit	<u>400</u>
Balance	\$ 0
 Respondent Merrill Lynch's one-half share	 \$ <u>400</u>

Fees are payable to the NASD, Inc.

### ARBITRATION PANEL

<u>Name</u>	<u>Public/Industry</u>
Marcus Eugene Gracia	Public
D'Anne Quinton	Public
George Stanley Guth	Securities

Concurring Arbitrators' Signature.

  
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Marcus Eugene Gracia

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D'Anne Quinton

Date Served: 03/23/94

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George Stanley Guth

Date of Decision: