

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

William T. and Barbara Mansfield

93-03946

Name of Respondents

Merrill Lynch, Pierce, Fenner and Smith, Inc.

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on September 27, 1993, Claimants William and Barbara Mansfield, who appeared Pro Se, alleged that Respondent Merrill Lynch, Pierce, Fenner and Smith, Inc. sold the Claimants twelve interests in the Arvida/JMB partners Limited Partnership, and were told by the Respondent that these limited partnership interests would be consistent with the Claimants' conservative goals as retirees. Claimants further alleged the Respondent explained that they could expect a nine percent return on these limited partnership interests. Claimants contended that the nine percent payments were subsequently discontinued and show no evidence of resuming. Claimants further contended that they have not been able to sell their interests in this limited partnership. Claimants contended that due to the above, they have suffered losses for which the Respondent should be held liable.

Respondent Merrill Lynch, Pierce, Fenner and Smith, Inc., through its in-house counsel Christopher D. Cavuoti, Esq., New York, New York, maintained that Claimants' investment in these limited partnership interests represented less than five percent of their stated net worth. Respondent further maintained that the details of this investment, including the risks involved, were thoroughly discussed with the Claimants, and that the Claimants also received a prospectus to review prior to making their investment decision. Respondent contended that any representations by an employee of Respondent regarding the Limited Partnership's anticipated annual yield was merely a projection that was not intended as a guarantee, nor should it have been reasonably interpreted as such. Respondent

further contended that the duty it owed to Claimants is one of ordinary and reasonable care, and that it fulfilled this duty by having a reasonable basis on which to recommend the Limited Partnership in light of the General Partner's track record and the conditions in the real estate market when the purchase in question was made. As a result of the above, Respondent maintained that it should not be held liable in this matter.

RELIEF REQUESTED

Claimants William T. and Barbara Mansfield requested \$10,000.00 in actual damages.

Respondent Merrill Lynch, Pierce, Fenner and Smith, Inc. requested that the Claimants' Statement of Claim be dismissed, and that costs be assessed against the Claimants.

AWARD

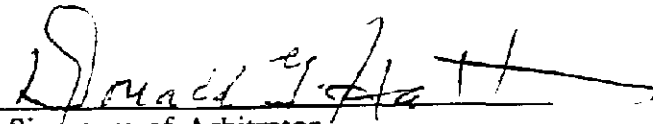
Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single public arbitrator, Donald G. Hatt, Esq., was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on September 21, 1993 and by the Respondent on January 11, 1994.

And, the Arbitrator, having considered the proof of the Parties, has decided and determined in full and final resolution of the issues submitted for determination as follows:

1. The claims of Claimants William T. and Barbara Mansfield against Respondent Merrill Lynch, Pierce, Fenner and Smith, Inc. are dismissed in their entirety.
2. The parties shall bear their respective costs.
3. The \$150.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant shall be retained by the NASD, Inc.

AFFIRMATION

I, **DONALD G. HATT, ESQ.**, do hereby affirm upon my oath of arbitrator that I am the individual described herein and who executed this instrument, which is my oath and award.



Signature of Arbitrator

DATE OF DECISION: June 27, 1994

STATE OF: NEW YORK

SS:

COUNTY OF: ALBANY

On this 13th day of June 19 94, before me personally appeared DONALD G. HATT, ESQ. to me known and known before me to be the individual described in and who executed the foregoing instrument and he duly acknowledged to me that he executed the same.

Donald G. Hatt

Phyllis S. Evans

PHYLLIS S. EVANS
Notary Public, State of New York
Qualified in Albany County
Commission Expires July 31, 1995