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N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

Sherman Borkan and Rene Holland Borkan TTEE's
of the Borkan Family Trust

93-04018

Name of Respondent

Merrill Lynch Pierce Fenner & Smith, Inc.

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on October 4, 1993, Claimants Sherman Borkan and Rene Holland Borkan TTEE's, who appeared Pro Se, alleged that Respondent Merrill Lynch, Pierce, Fenner & Smith, Inc. made an unsuitable recommendation on October 3, 1987 to purchase 10 shares of Arvida/JMB Limited Partners stock for \$10,000.00. Claimants further alleged that Respondent's representative told them they could depend on this investment for a steady income and on June 1990 Claimants received a notice that the quarterly distributions would cease until Arvida/JMB got back on their feet. The Claimants contended that in September 1993 they were informed this would not happen and they would not get their principal back due to their financial problems. Claimants asserted that Respondent made an unsuitable recommendation which was misrepresented, therefore they should be compensated for their loss.

Respondent Merrill Lynch, Pierce, Fenner & Smith, Inc., through their in-house counsel, Christopher D. Cavuoti, Esq., maintained that Claimants did not invest a great deal of net worth and they were sent a prospectus for Arvida/JMB which made specific disclosures regarding risks, including illiquidity. Respondent further maintained that the prospectus indicated that there were no guarantees. The Respondent contended that the investment met the Claimants' objectives and that they had provided information that indicated their net worth was substantial. Respondent further contended that Arvida/JMB was a suitable and appropriate investment recommendation based on Claimants' investment objectives and; therefore it has not committed any wrongdoing in this matter and the case against it should be dismissed.

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RELIEF REQUESTED

Claimants Sherman Borkan and Rene Holland Borkan TTEE's requested \$10,000.00 in actual damages.

Respondent Merrill Lynch, Pierce, Fenner & Smith, Inc. requested that the claims of the Claimants be dismissed.

AWARD

Pursuant to Section 13 of the NASD, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Franklin G. Allen, Esq., was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimants on July 14, 1994 and by the Respondent on January 17, 1994.

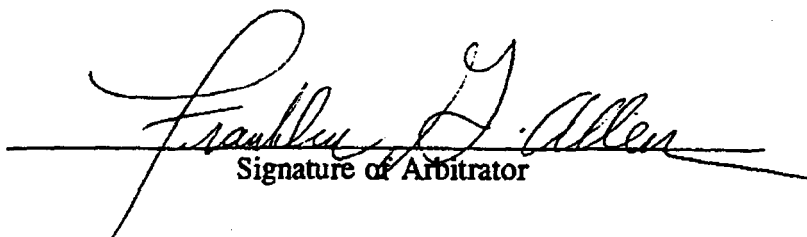
And, the Arbitrator, having considered the proof of the parties, has decided and determined in full and final resolution of the issues submitted for determination as follows:

1. The claims of the Claimants Sherman Borkan and Rene Holland Borkan against Respondent Merrill Lynch, Pierce, Fenner & 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 Claimants Sherman Borkan and Rene Holland Borkan shall be retained by the NASD, Inc. Respondent Merrill Lynch, Pierce, Fenner & Smith, Inc. is liable and shall pay to the Claimants Sherman Borkan and Rene Holland Borkan \$150.00 as reimbursement of the filing fee.

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AFFIRMATION

I, FRANKLIN G. ALLEN, ESQ., do hereby affirm upon my oath as 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: January 30, 1995