

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

**NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.**

In the matter of the Arbitration Between

**Name of Claimants**

Mao Ta Chen (aka Mo-Ta Chen)  
Yeng Feng Shieh Chen

NASD Arbitration  
#94-00404

vs.

**Name of Respondents**

Merrill Lynch, Pierce Fenner & Smith, Inc.  
Albert Shihnai Yuan

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**REPRESENTATION**

For Claimants: Ms. Greta Chen - San Jose, California

For Respondents: Michael Licosati, Esq. , - Keesal, Young & Logan - Long Beach, California

**CASE INFORMATION**

Statement of Claim filed: February 2, 1994

Claimants' Submission Agreement signed: January 21, 1994

Joint Statement of Answer filed by Respondents on: October 13, 1994

Submission Agreement signed by Respondent, Merrill Lynch, on October 12, 1994

Submission Agreement signed by Respondent, Albert Shihnai Yuan on April 22, 1994

**HEARING INFORMATION**

Hearing Dates/(Sessions): May 15, 1995 - Prehearing      One Session

May 25, 1995 -      Two Sessions

Hearing Location: San Francisco, California

### **CASE SUMMARY**

Claimant alleged that Respondent, Albert Shihnai Yuan (Yuan), while employed by Respondent Merrill Lynch, sold to Claimants a \$40,000.00 interest in MRI Business Properties Fund III, when he knew or should have known that said investment was contrary to the Claimants' financial objectives.

Respondents alleged that the Claimants were well advised, orally and in writing, of the details of their investment in MRI and that the limited partnership investment was authorized and suitable.

### **RELIEF REQUESTED**

Claimant seek to recover monetary damages of \$40,000.00 plus interest.

Respondents seek dismissal of the claim in its entirety, 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 original remains on file with the NASD. Claimant's representative petitioned the panel to allow the Claimants to testify by telephone with the utilization of a Mandarin interpreter. Said petition was granted, however, Claimants were to assume any costs relating to the international telephone call (Taiwan).

### **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. Respondent, Merrill Lynch, is solely liable and shall pay to Claimants, Mao Ta Chen and Yeng Feng Shieh Chen, the sum of Thirty Thousand Dollars and No Cents (\$30,000.00).
2. Each and every claim of Claimants against Respondent, Albert Yuan, is dismissed.
3. In consideration of the payment of the monetary award at paragraph one above, Claimants shall relinquish one-half of all right, title and interest the MRI interest at issue.
4. The parties shall each bear their respective costs and fees, including attorneys' fees.

5. Any costs and or charges relating to the international conference call shall be borne by Claimants and shall pay to the NASD any charges for said call that the NASD may incur.

### FORUM FEE

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the NASD shall retain all fees and deposits.

**Forum fees:**

One Pre-hearing telephone conference	\$300.00
Two hearing sessions @ \$400.00 each	\$400.00
Total Fees Assessed	\$700.00

Said fees of \$700.00 are assessed against Respondent, Merrill Lynch, solely.

Fees are payable to the National Association of Securities Dealers, Inc.

### ARBITRATORS

<u>Name</u>	<u>Public / Industry</u>
Brian F. Kram, Esq.	Public
Michele Neureuter	Industry
Henry Wong	Public

### Concurring Arbitrators Signatures

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Brian F. Kram, Esq.



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Michele Neureuter

\_\_\_\_\_  
Henry Wong

Date of Decision: \_\_\_\_\_

06/23/95