

AWARD

NASD REGULATION, INC., OFFICE OF DISPUTE RESOLUTION

In the matter of the Arbitration Between

Robert Wainscott
Joyce Wainscott

v.

Arbitration No.
96-01722

Merrill Lynch Pierce Fenner & Smith, Inc.
Robert G. Green

REPRESENTATION OF PARTIES

Robert Wainscott and Joyce Wainscott represented themselves pro se.

Merrill Lynch Pierce Fenner & Smith, Inc. and Robert G. Green were represented by
Albert E. Peacock, III, Esq., Keesal Young and Logan, Anchorage, Alaska.

CASE INFORMATION

- 1) Statement of Claim was filed on or about April 18, 1996.
- 2) Claimants' Submission Agreement was signed on April 18, 1996.
- 3) Claimants' Amended Statement of Claim was filed on or about December 1, 1996.
- 4) Respondents' and Green's Joint Statement of Answer and Motion to Dismiss was filed on or about August 13, 1996.
- 5) The Submission Agreement for Merrill Lynch Pierce Fenner & Smith was signed on August 13, 1996.
- 6) The Submission Agreement for Robert G. Green was signed on November 12, 1996.
- 7) Claimants' Response to Respondents Motion to Dismiss was filed on or about September 3, 1996.
- 8) Claimants' Amended Response to Respondents' Defense based on Alaska Statute of Limitations was filed on or about December 2, 1996.
- 9) Merrill Lynch Pierce Fenner & Smith and Robert Green's Motion to Dismiss, Opening Brief, was filed on January 30, 1997. (Attachment-Respondents' Compendium of Legal Authority)-
- 10) Claimants filed a Response to Merrill Lynch Pierce Fenner & Smith and Robert Green's Motion to Dismiss. Said motions were denied.
- 11) Claimants filed a motion for a public hearing on April 1, 1997. Said motion was denied.
- 12) Claimants requested they be allowed to add a claimant against respondents alleging improper investigation of their complaint. Said motion was denied as untimely.

- 13) Respondents submitted on January 3, 1997, the Federal Decision, USDC, Middle District of Florida, Tampa Division, Joseph Tourdo vs. Merrill Lynch Pierce Fenner & Smith.
- 14) Respondents' Motion to Dismiss, Reply Brief was filed on February 14, 1997.
- 15) Claimants' Supplemental Reply to the Motion to Dismiss was filed on February 14, 1997.

HEARING INFORMATION

A pre-hearing conference was held on December 10, 1996, which lasted one session.

A hearing was held on the Motion to Dismiss on February 21, 1997. The hearing lasted one session.

The hearing was held in Anchorage, Alaska on the following dates:

May 27, 1997	two sessions;
May 28, 1997	two sessions;
May 29, 1997	two sessions.

CASE SUMMARY

ROBERT WAINSCOTT and JOYCE WAINSCOTT ("Claimants") alleged that upon seeking ROBERT GREEN'S ("Green") advice regarding the reinvestment of the proceeds of a recently called bond Green recommended the purchase of an MRI, Business Properties Fund, Limited Partnership("MRI"). Claimants alleged Green fraudulently misrepresented MRI to claimants and MRI was unsuitable for investors of their sophistication and experience. Claimants alleged MERRILL LYNCH, PIERCE, FENNER & SMITH, INC. ("Respondents") fraudulently concealed the value of MRI while it was held by claimants and, further, failed to supervise Green in connection with his activities related to the MRI sale.

Respondents and Green denied the allegations set forth in the Statement of Claim. Respondents and Green specifically argued that claimants were seeking returns which were equivalent to those associated with the recently called bond. Respondents and Green further argued Claimants declined Green's recommendations they create a more diversified portfolio of equity stock, bonds and a mix of limited partnership units.

RELIEF REQUESTED

Claimants requested an Award in the amount of \$29,760, plus treble damages in the amount of \$89,280, plus interest and costs.

Respondents and Green requested all claims raised in the Statement of Claim be dismissed and they be awarded attorneys fees and costs.

OTHER ISSUES CONSIDERED & DECIDED

Subsequent to discovering a conflict which existed between her present employer and Respondents' counsel Albert E. Peacock, Esq., Margaret Price removed herself from the panel.

The parties have agreed that a handwritten, signed Award may be entered. The parties requested that the award include Findings of Fact. Further, the parties have agreed to receive conformed copies of the award while the original remains on file with NASD Regulation, Inc., Office of Dispute Resolution.

DECISION

After considering the pleading, the testimony, and the evidence presented at the hearing and the post-hearing submissions, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

A) FACTUAL FINDINGS

I.

Green was a licensed stockbroker employed by respondent. He first met claimants in 1981 on referral from claimants' lawyer. Robert Wainscott had received a \$100,000 settlement from a lawsuit and wanted to buy \$100,000 of Alaska housing bonds, which yielded 12-1/2% with a 20 year maturity. Claimants represented on their New Account Form a combined annual income of \$95,000 and a net worth of \$500,000.¹

II.

Claimants both were educated.² Both were professionally employed, first as insurance claim adjusters and thereafter in supervisory roles. Both were intelligent, articulate, thoughtful and detailed oriented people. Some viewed them as difficult and mistrustful. In 1981 neither had much investment experience, their portfolio limited to purchases of INA company shares and a small inheritance. On their New Account form, claimants checked boxes indicating their investment objective was "long term" and their investment focus was "good quality." When questioned, Robert

¹ Claimants testified in 1981 their net worth was an estimated \$165,000, consisting of a \$50,000 home equity, approximately \$15,000 in employer securities, plus the \$100,000 lawsuit settlement.

² Robert Wainscott obtained a Bachelor of Science degree from Penn State in 1964. Joyce Wainscott's education was not evidenced.

Wainscott indicated this meant he did not want to lose his principal and in his opinion, the Alaska Housing bond purchases did not risk principal and were within his investment focus and risk tolerance.

III.

When they first met, Green counselled claimants not to invest the entire \$100,000 in the Alaska bonds. He pointed out because \$100,000 represented a substantial percentage of their net worth and they should diversify their investments and thus diversify the risk inherent in any particular investment. Although the bonds generated an attractive rate of return, they were subject to the risk of interest rate fluctuation, solvency of the borrower and early redemption. Despite his advice, claimants purchased \$100,000 of the Alaska bonds.

IV.

Between 1981 and 1983 claimants purchased through Green \$17,000 of mutual funds for their IRA account(s).

V.

In late 1983, due to falling interest rates, \$25,000 of claimants' Alaska housing bonds were redeemed. On December 12, 1983,³ claimants and Green met to decide how to invest the \$25,000. Green's initial suggestion was that claimants purchase seven percent (7%) municipal bonds or the American Fund, a stock mutual fund. Claimants rejected his suggestions. They wanted a return similar to the 12-1/2% they had been receiving on the bonds and, because they viewed the United States economy suspiciously, were highly resistant to stock purchases. Green pointed out there were not safe investments available with yields comparable to the Alaska bonds as interest rates had fallen. If, however, claimants were comfortable with a long term, illiquid investment, then consideration of a real estate based limited partnership might suffice. There would be tax shelter opportunities and the yield could be similar to the housing bond yields⁴. Claimants expressed interest and Green offered to research the matter.

VI.

Green investigated offerings through his office computer and found two real estate based limited partnerships that appeared to fit the profile outlined to claimants, one unleveraged and one

³ Although claimants raised questions about the accuracy of the dates and times of the 1983 meetings, Green's recollection supported by entries in his daily calendar credibly verify their accuracy.

⁴ MBI was projecting an annual distribution of approximately seven per cent (7%).

with a small amount of leverage.⁵ He telephoned claimants who expressed continued interest. Green thereafter ordered the offering documents for each company.

On December 21, 1983, claimants and Green again met. Prior to the meeting he had personally reviewed the offering materials and when they met recommended both partnerships to claimants, suggesting they divide their purchases between the two so as to diversify the risks. This suggestion was rejected by claimants who personally liked MRI. Green was also partial to MRI, basing his preference on what he felt was its reputable management, a decent history of operation, a fair schedule of management fees and that the underlying real estate investments appeared to be in quality properties⁶. Green rated the MRI investment risk as moderate predicated on its 30% loan-to-value ratio (i.e. leverage), its management, track record and the quality of its investment properties. Additionally, it contained some tax benefits⁷. The meeting concluded and claimants took the MRI prospectus and offering package home for further review.

On December 23, claimants returned a signed MRI subscription agreement to Green⁸ and purchased 20 units of MRI for \$20,000.⁹ Claimants deny reading both prospectus and subscription agreement prior to executing the latter.

VII.

The evidence established there was little if any promotional activity by respondents of MRI.¹⁰

⁵ Although highly leveraged real estate limited partnerships offered attractive tax benefits prior to the Tax Reform Act of 1986, they were considered by most to be highly risky. Investors also faced the possibility of "calls" for capital after the initial investment. When Green pointed this out to claimants, they were not interested and expressed a preference for a safer, less leveraged investment without a "call" risk.

⁶ MRI was managed by the real estate investment and brokerage firm of Fox and Carakadon Financial Corp. for whom Green had been employed. Its real estate holdings were investment grade office buildings and hotels located throughout the country.

⁷ Green recalls discussing the long term quality of the investment. Claimants acknowledged they knew the investment would be locked in for several years. MRI's exit strategy was to sell the properties at some later advantageous date and thereby fully return investors' capital.

⁸ Although evidence of the date of return of the subscription agreement and the date it was signed are somewhat confusing, it was more probable than not a subscription agreement signed by claimants was in respondents' office no later than December 23, entered on the company records (the "Trade Date") December 28, and accounts debited (the "Settlement Date") on December 30, 1983.

⁹ Why only \$20,000 of the \$25,000 was invested was not clear from the evidence.

¹⁰ Respondents had a minor participatory interest in MRI which consisted of a share of profits if certain conditions were met. This interest was disclosed in the offering prospectus under the heading "Conflict of Interests".

Green was unfamiliar with the partnership prior to the sale to claimants. Claimants made no contention Green pressured them to purchase MRI. Green's commission was seven percent (7%). There was no evidence the commission was excessive.

VIII.

MRI made annual distributions of approximately seven percent (7%) until 1987, at which time they were reduced to four and one-half percent (4-1/2%). In February, 1988 MRI paid a distribution of one percent (1%).¹¹ This was the last distribution claimants received from MRI. Prior to 1991, claimants did not make any inquiry about MRI to its management, to respondents or to any of their brokers about the health of the partnership, the value of their units or reasons why their distribution checks were not forthcoming.¹² Claimants tax returns for 1988, 1989 and 1990 reflected MRI experienced operating losses.

MRI sent to claimants quarterly newsletters, quarterly Securities and Exchange Commission ("SEC") Form 10-Q, annual SEC regulatory Form 10-K and annual IRS Schedule K-1, Form 1065. Each contained narrative and financial information data about MRI's performance and estimates of limited partners equity. From 1989, most of the newsletters and financial information reflected a declining business environment.¹³

IX.

In 1986 Congress passed the Tax Reform Act which had a negative effect on the tax implications of real estate based limited partnerships. This, in addition to the steep decline of oil prices, the fall of the Japanese economy and a general malaise in the United States economy in the late 1980's, resulted in a nationwide recession accompanied by a precipitous fall in domestic real estate values. This was widely reported in the national media and its impact was especially severe

¹¹ Prior to suspension of all payments, MRI paid to claimants a total of \$4,484 from 1983 through 1991.

¹² Bond values were reported by respondents similar to limited partnerships (e.g. either "N/A" or at the initial offering price) in its monthly CMA (See footnote 15, supra) until 1985. There was evidence in January and July, 1982, Robert Wainwright called Green and inquired about the Alaska housing bond prices.

¹³ Commencing in 1988 the newsletters, regulatory reports and IRS statements uniformly reflected operating losses, declines in partnership equity, declines in the capital account, mounting tax losses and very poor business expectations by the management of MRI. In addition, commencing in 1984 shareholder equity was reported in the SEC Forms 10-Q and 10-K as \$75,000,000, or \$314 a unit. Thereafter, it declined steadily each year to a reported \$31,000,000, \$318 a unit, in 1991. In the Annual Report for year ended September 30, 1990, it was announced that one of the MRI properties was being foreclosed and that investors capital investment would not all be returned. Claimants acknowledged receipt of all of these communications, filed and saved most. They disclaimed reading the reports and newsletters and made no inquiries, though all of the requisite financial information was transmitted to their accountant and incorporated into their annual income tax returns.

in Alaska.

X.

Green commenced working as a broker in 1977. He left respondents' employment in 1985. His manager testified Green was very thorough and professional in his work. Within the Anchorage office Green was the broker whom other brokers consulted for insight into limited partnership offerings. There was no evidence of any other disciplinary hearings or customer complaints.

Claimants continued as respondents' client after Green departed. Later, Sally Beckwith became their broker.

XI.

Throughout respondents' representation, claimants were sent a monthly statement ("CMA").¹⁴ Through 1985, claimants' MRI units and their bonds were listed as "N/A" under the column where estimated market values were reported and no value was stated. After 1985, the reporting practice changed. Bond prices were reported under the column at their last quoted price. The MRI units were reported under the same column at \$20,000 (e.g. the initial offering price). In December, 1991, the reporting of market value for the MRI units changed again and market value was again listed as "N/A."¹⁵ When this occurred, claimants contacted Sally Beckwith about the change. She informed them the value of MRI was not \$20,000 and that \$20,000 was the offering price. The real value of MRI, she told them, had greatly depreciated and there was no market for their MRI units.¹⁶ After researching a secondary market for limited partnerships, she opined MRI units had a value of between \$50 and \$100 on the secondary market, but that the last sale/purchase had taken place about two years before.¹⁷

Despite its decline in value, Sally Beckwith advised claimants to hold MRI. She noted it was still a viable, ongoing business which owned and operated several valuable business properties, that the economic climate was bullish and the best use of their money was to leave the investment

¹⁴ The monthly statement was titled a "Cash Management Account" or "CMA." It contained a summary of all trading activity and under a column labeled "Estimated Current Market Value" would appear the current value of most investments in the account.

¹⁵ The reverse side of the monthly statement contained a note of explanation which, if read, alerted the reader to the fact the "Estimated Market Value" of MRI stated on the front was not the estimated market value, rather it was the initial offering price.

¹⁶ The face sheet of Securities and Exchange Commission Form 10-K transmitted to claimants annually contained the following legend: "No market for the Limited Partnership Units exists and therefore a market value for such units cannot be determined." They deny reading it.

¹⁷ On October 22, 1992, Sally Beckwith communicated to claimants that a secondary market for limited partnerships reported the most recent sale of MRI shares to be approximately 24 months prior at a price of \$50-\$100 per share.

intact. Nonetheless, depressed by the drop in MRI's value, as a 1992 Christmas present, claimants gave a check to their daughter for \$2000. She cashed the check and gave \$2000 back to claimants in return for title to the MRI units.¹⁸ Claimants arrived at the \$2000 value predicated on the information provided by Beckwith.

B) DETERMINATIONS

I.

Alaska law has not addressed the question whether a securities broker owes to his or her customer a fiduciary obligation. Nonetheless, where a broker occupies a position of trust or where a special confidence is placed, then he or she is bound to act in good faith and with due regard to the interests of the customer. What does this mean in practical terms? Justice Burke, writing for the Alaska Supreme Court in *Black vs Dahl* ((1981) 625 P.2d 876), noted the person on whom the fiduciary obligation is imposed must:

"...exercise the utmost good faith and fidelity towards his principal...in all matters falling within the scope of his employment...and to make in all instances, a full, fair, and timely disclosure...of all facts within the knowledge or coming to the attention of the broker which are or may be material in connection for which the broker is employed--and which might affect the principal's rights or interests or influence his actions." (@881).

Where a person breaches a fiduciary obligation, the transgressor is liable in general damages for any harm suffered and punitive damages if the conduct is egregious.

II.

Green occupied a position of trust in his relationship with claimants and owed to them a fiduciary obligation. This relationship was not established until after 1981. When claimants purchased \$100,000 of Alaska Housing bonds, Green acted as a mere order taker. Claimants neither desired nor followed Green's counsel about portfolio diversement, concentration of risk or the vagaries of bond investments.

By 1983 Green had won the grudging confidence of claimants and, despite their mistrustful nature, they sought his advice and utilized his counsel. Claimants willingly recognized his superior knowledge of investments, risk analysis and diversification. And, after what appeared to be careful deliberation and ample time to think the matter through, they followed some of his advice in their purchase of MRI. Green's fiduciary responsibility had commenced.

¹⁸ Since claimants' transfer of the MRI shares there have been several substantial cash distributions.

Green did not breach his obligation to claimants. He neither recommended to them an investment unsuitable for their portfolio nor did he misrepresent the nature and inherent risks of the MRI investment. Green's actions occurred in 1983 and must be judged by standards then prevailing. The United States economy was upwardly mobile. Interest rates were declining and the real estate market was experiencing positive growth. Real estate limited partnerships were viewed in a positive light.

Claimants financial holdings at the time consisted of stocks, real estate, bonds and cash. Both were well employed professionals for large companies with substantial annual earnings. The \$20,000 they invested in MRI was a small percentage of their net worth. They had some experience making investments. They were conservative in their economic outlook and cautious by nature.

Green undertook his fiduciary responsibility to claimants in a professional and competent manner. He researched the limited partnerships, procured and personally reviewed the offering materials. He took time, met with and educated them about limited partnership investments in general and MRI in particular. It was evident that, although claimants ultimately followed Greens advice, the MRI purchase was a considered choice on claimants part and simply the last in a series of decisions they made and clearly their decision. Despite rising stock prices and falling bond prices they had declined to follow Green's initial advice to invest in a stock fund or municipal bonds. They chose to place the entire \$20,000 into MRI and not split the investment between limited partnerships as Green had urged. They acknowledged the illiquid, long term nature of the investment. These factors, when added to the moderate risk illustrated by the quality of MRI management, its modest fee structure, history of positive operations, investment grade quality of its holdings and low amount of debt, all signaled MRI was suitably recommended and prudently considered before an informed choice was made.

There was also little, if any, evidence warranting the inference Green did not fully appraise claimants of the risks associated with their purchase of MRI. The offering materials spelled out the risks in detail. These materials were procured, compared and explained to claimants by Green. And, although Robert Wainscott does not recall receiving and reading them, when viewed in conjunction with numerous other financial and business details transmitted to claimants over the years, also unread, it is more probable than not the offering materials were in claimants possession prior to purchase...available for review...had they chosen to do so.

At the time MRI appeared to be an ideal vehicle fitting claimants' investment needs and portfolio diversification. It was of moderate risk and, given MRI weathered one of the worst real estate recessions of this century and remained a viable business, hindsight also supports Green's recommendation of it.

Neither was Green motivated to sell MRI to claimants for ulterior reasons. His seven percent (7%) commission was a standard. He had not been influenced by an incentive or bonus program and there was no evidence MRI had even presented a sales pitch to respondents' Anchorage

office.¹⁹ Green had no knowledge of MRI prior to his research on claimants' behalf, and MRI was presented to claimants in conjunction with and compared to another partnership investment...accompanied by Green's recommendation that claimants split their investment between them.

IV.

As it is clear Green did not breach his responsibilities to claimants, their claim that respondents breached an obligation by failure to supervise Green's is moot.

V.

Whether respondents breached an obligation to claimants by their method of reporting the value of the MRI investment over the years is a more troubling question. Clearly the face of respondents' CMA after 1985 could have led the casual observer to believe the reported "Estimated Market Value" of the MRI investment was \$20,000 and that they had the right to rely on the integrity of that number. Moreover, the face of the CMA did not contain any notation, footnote, asterisk or other device designed to catch the eye and called attention to the fact that "Estimated Market Value" was not really market value, rather the initial offering price. If this method of reporting was not deceptive, it certainly was sloppy and served no practical or business function.

Equally troubling, however, is whether reliance on the reported "Estimated Market Value" by claimants was reasonable in light of the circumstances? By their acceptance and reliance on the reported market value each month claimants had to believe from 1983 through 1991, the value of MRI remained static at \$20,000. This defies logic in a world where economic fluctuation is the norm, particularly when the media was reporting large swings in economic and real estate values nationally and severely depressed real estate values locally. Furthermore, claimants received four MRI newsletters, four MRI quarterly financial statements, an annual MRI financial statement, an annual MRI IRS return, and an annual MRI report which, if read, would have told a story of MRI's economic fluctuation and prompted inquiry. One is puzzled why Robert Wainscott called Green several times questioning the pricing of the Alaska Housing bonds--which were being reported from 1981 through 1985 along with the MRI units as "N/A"-- and did not bother to question the values of the MRI investment at all until 1991.

The above, however, begs the question which is whether claimants were damaged by the values reported in the CMA and whether, in turn, MRI had a "market value" susceptible of reporting? MRI units were illiquid, a fact acknowledged by claimants. They discussed illiquidity with Green. MRI's lack of liquidity was prominently set out in the offering materials and claimants were reminded about MRI's illiquidity annually on the face of SEC Form 10-K. It stated:

¹⁹ Respondents were the exclusive agent authorized to sell units of MRI. There was no evidence respondents' Anchorage office or Green were ever pressured, gave or received special marketing attention to MRI.

"No market for the Limited Partnership Units exists and therefore a market value for such units cannot be determined." ²⁰

Therefore, regardless of the CMA statement of MRI's value, and regardless of the SEC reports pointing out a decline of MRI's value and regardless of MRI's last reported sale price in the secondary market, two facts about MRI are evident. The first was that each report of MRI's value could not have been any reflection of its market value because no "market" existed.²¹ The second was that MRI units were illiquid—no sale was possible regardless of its value—even in the secondary market which reported there had been no transactions for over 24 months. Thus, even assuming claimants were misled by the method respondents employed in the CMA, claimants were not damaged because the absence of a market and absence of liquidity precluded any action by them.

The transfer of claimants' MRI units to their daughter for \$2000 is not evidence of value, nor damage. "Value" in its most generic form is defined as the price arrived at by a willing buyer and a willing seller. The transfer to their daughter utilized a \$2000 gift that masks the true donative intent behind claimants transfer of the MRI units.

VI.

Pursuant to Alaska law (Alaska Statutes, Title 9, sections 09.43.100 and 09.60.010; Alaska Rules of Court, Rule 82; c.f. *Harolds Trucking vs Keley*, 584 P.2d 1128 (1978)) the prevailing party in an arbitration may be entitled to an discretionary award of reasonable attorneys fees and costs. The parties have agreed these may be considered by motion and declaration in lieu of hearing.

C) DECISION

The claims of Robert Wainscott and Joyce Wainscott are denied.

Robert Green is awarded costs of suit in the amount of twenty dollars and eighty-five cents (\$20.85) and attorneys' fees in the amount of two hundred eighty-eight dollars and seventy-five cents (\$288.75) which is thirty percent (30%) of \$962.50.

Merrill Lynch, Pierce, Fenner & Smith, Inc. is awarded costs of suit in the amount of three thousand three hundred thirty-six dollars and fifty-eight cents (\$3,336.58) and no attorneys' fees.

The forum fees of the National Association of Securities Dealers are to be split equally

²⁰ see footnote 16, *infra*

²¹ The secondary market data similar to that provided by Sally Backwith is not an index of limited partnership values, rather it is an indicia of "firesale" valuations---sales by investors who must liquidate their holdings regardless of consequences.

SENT BY:

11-17-98 ; 9:28AM ; NASD ARBITRATION DPT→

12122085165;#18/19

SENT BY:

11-17-98 ; 9:28AM ; NASD ARBITRATION DPT→
10-21-98 ; 10:44AM ; NASD ARBITRATION DPT→# 2

between claimants and respondents, with claimants bearing 50% and respondents 50%. There were 8 sessions charged x \$500 = \$4,000 in total forum fees. Pursuant to Rule 10332(b) of the NASD Regulation, Inc., Office of Dispute Resolution Code of Arbitration Procedure (the "Code"), a hearing session is any meeting between the parties and the arbitrator(s), including a pre-hearing conference with an arbitrator, which lasts four (4) hours or less. Pursuant to Rule 10332(c) of the Code of Arbitration Procedure,

Total Fees	
8 Hearing Sessions @ \$500.00 =	\$4,000.00
Total	\$4,000.00

Claimant's 1/2 share	\$2,000.00
Claimant's credit for deposit	\$ 500.00
Claimant's balance	\$1,500.00

Respondents 1/2 share	\$2,000.00
Respondents Balance	\$2,000.00

Pursuant to Rule 10332(c) of the Code, NASD Regulation, Inc. shall retain the non-refundable filing fee in the amount of \$150 and shall retain as forum fees the hearing session deposit in the amount of \$500 previously deposited with NASD Regulation, Inc. by the claimants.

Pursuant to Rule 10333 of the Code, the NASD shall retain the member surcharge fee in the amount of \$300 previously paid by respondents.

Fees are payable to the NASD, Regulation, Inc.

Dated:


Alfred P. Knoll, Esq.
Public Arbitrator, Presiding Chair

11/5/97

James Reid Carr
Public Arbitrator

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Total	<u>\$4,000.00</u>

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Claimant's credit for deposit	<u>\$ 500.00</u>
Claimant's balance	\$1,500.00

Respondents 1/2 share	<u>\$2,000.00</u>
Respondents Balance	\$2,000.00

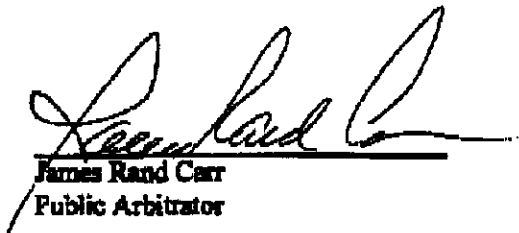
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Pursuant to Rule 10333 of the Code, the NASD shall retain the member surcharge fee in the amount of \$300 previously paid by respondents.

Fees are payable to the NASD, Regulation, Inc.

Dated:

Alfred P. Knoll, Esq.
Public Arbitrator, Presiding Chair



James Rand Carr
Public Arbitrator

10/28/97