

## **AWARD**

### **NASD REGULATION, INC., OFFICE OF DISPUTE RESOLUTION**

In the matter of the Arbitration Between

**Name of Claimant(s)**

Napoleon N. Assam

v.

Arbitration No.  
96-01997

**Name of Respondent(s)**

Merrill Lynch, Pierce, Fenner & Smith  
William K. Chan

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### **REPRESENTATION**

For Claimant: Michael K. Woo, Esq., Law Offices of Harold E. Kahn, San Francisco, California

For Respondents: Todd A. Zuckerbrod, Esq., Merrill Lynch, New York, New York

### **CASE INFORMATION**

Statement of Claim filed: May 2, 1996

Claimant's Submission Agreement signed: April 12, 1996

Joint Statement of Answer and Counterclaim filed: June 14, 1996

Respondents' Submission Agreements signed:

Merrill Lynch: June 10, 1996

William Chan: June 6, 1996

### **HEARING INFORMATION**

Pre-hearing telephone conferences were held as follows:

February 28, 1997- 1 session

April 9, 1997- 1 session

The evidentiary hearing was held in San Francisco, California, as follows:

May 29, 1997- 2 sessions

May 30, 1997- 2 sessions

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### **CASE SUMMARY**

Claimant alleged negligence, fraud, negligent misrepresentation, breach of fiduciary duty, unsuitable recommendations and failure to supervise with respect to his investments in the common stocks of Indigo and Chipcom. Claimant alleged Respondents failed to inform him of negative information about his stocks, causing losses in his account.

Respondents denied the allegations of the Claim, and asserted Claimant was an experienced investor who traded actively and aggressively on margin, and who rejected Respondents' advice to diversify his holdings and to sell shares before margin maintenance calls resulted in account liquidation.

Respondent Merrill Lynch alleged a debit balance due and owing in Claimant's account from liquidation.

### **RELIEF REQUESTED**

Claimant requested damages of approximately \$82,000 on stock losses, plus emotional distress damages of \$30,000, and interest.

Respondents requested dismissal of all Claims. Respondent Merrill Lynch requested an award of \$5,594.87 on the Counterclaim.

### **OTHER ISSUES**

The parties have agreed to receive conformed copies of the Award while the originals remain on file with NASDR.

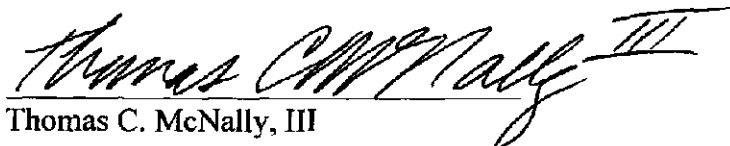
### AWARD

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 by Claimant are denied in their entirety
2. The Counterclaim of Merrill Lynch is denied.
3. The panel orders the expungement of this matter from permanent NASD record of William K. Chan
4. The parties shall each bear their respective costs of arbitration, including attorneys' fees.

### FORUM FEES

Pursuant to Section 10332, Claimant's filing fees have been waived. The NASDR shall retain the \$500 filing fee paid by Respondent. No forum fees are assessed.

  
Thomas C. McNally, III

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Alex N. Kadrie

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Ronald Pelosi

Date Served: June 16, 1997

Date Signed: 6-10-97

### AWARD

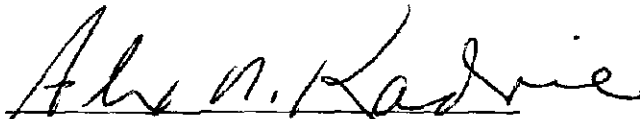
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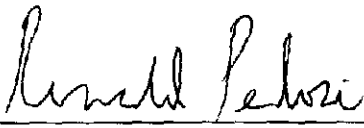
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