

**AWARD**

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

In the matter of the Arbitration Between

Name of Claimant

David R. Laur

v.

Arbitration No.

96-02464

Name of Respondents

Merrill Lynch, Pierce, Fenner & Smith, Inc. and Jeffrey Davis

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**REPRESENTATION**

For Claimant:

J. Leo Federman  
Investors Rights Association, Inc.  
Santa Barbara, California

For Respondents:

Joycelyn E. McGeachy, Esq.  
Merrill, Lynch Litigation Department  
New York, New York

Victoria A. Levin, Esq.  
Orrick, Herrington & Sutcliffe LLP  
Los Angeles, California

**CASE INFORMATION**

Statement of Claim filed: June 7, 1996

Claimant's Submission Agreement signed: June 5, 1996

Joint Statement of Answer filed by Respondents: August 9, 1996

### **HEARING INFORMATION**

Pre-Hearing Conference Dates/Sessions:      October 21, 1996 (1 session)  
December 19, 1996 (1 session)  
June 18, 1997 (1 session)

Hearing Dates/Sessions:                              June 25, 1997 (2 sessions)

Hearing Location:                                      Los Angeles, California

### **CASE SUMMARY**

Claimant alleged that Respondents committed fraud, deceit, breach of fiduciary duty, negligence and breach of contract. Specifically, Claimant asserted that Respondent Davis recommended and purchased unsuitable investments given Claimant's objectives and that Respondent Merrill Lynch failed to properly supervise Respondent Davis' actions.

Respondents denied Claimant's claim in its entirety. Specifically, Respondents asserted that Claimant was fully aware and apprised of all risks associated with his investments prior to their purchase and that all investments made on behalf of Claimant were suitable given his investment objectives.

### **RELIEF REQUESTED**

Claimant sought \$10,300.00 in compensatory damages, pre and post-award interest from the date of each investment at issue, and punitive damages.

Respondents sought dismissal of Claimant's Statement of Claim in its entirety and all costs incurred in connection with the arbitration.

### **OTHER ISSUES CONSIDERED AND DECIDED**

The parties have agreed that the Award in this matter may be executed in either 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 Regulation, Inc. Office of Dispute Resolution.

### **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 Jeffrey Davis is liable to and shall pay Claimant the sum of \$10,300.00.
2. All Claimant's claims against Respondent Merrill Lynch, Pierce, Fenner & Smith, Inc. are dismissed in their entirety.
3. Claimant's claims for interest and punitive damages are denied.
4. Each party shall bear their own costs, including attorney and representative fees.

### **FORUM FEES**

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the following forum fees are assessed against Claimant and Respondent Jeffrey Davis:

Three (3) Pre-Hearing Conferences @ \$300.00/Session	= \$900.00
<u>Two (2) Hearing Sessions @ \$300.00/Session</u>	<u>= \$600.00</u>
Total Forum Fees Assessed	= \$1,500.00
 Claimant's One-Half Share	 = \$750.00
<u>Claimant's Credit for Hearing Session Deposit</u>	<u>= \$300.00</u>
Claimant's Balance Due	= \$450.00
 <u>Respondent Jeffrey Davis' One-Half Share</u>	 <u>= \$750.00</u>
Respondent Jeffrey Davis' Balance Due	= \$750.00

Fees are payable to NASD Regulation, Inc.

**ARBITRATORS**

<b><u>Name</u></b> .....	<b><u>Public/Industry</u></b>
Delores I. Smith, Esq.	Public Arbitrator

**Arbitrator's Signature**

Delores I. Smith, Esq.  
Delores I. Smith, Esq.

Date of Service: July 17, 1997