

# **NASD** Arbitration & Mediation

National Association of Securities Dealers, Inc. \* NASD Financial Center \* 33 Whitehall Street \* New York, NY 10004 \* Fax 212-858-4429  
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## **N.A.S.D. AWARD**

### **NATIONAL ASSOCIATION OF SECURITIES DEALERS**

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In the Matter of the Arbitration Between

#### Name of Claimants

Caroline & Robert N. Leentjes  
and Caroline Colie

96-02959

#### Name of Respondents

Duane Ohly

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### **CASE SUMMARY**

In a claim filed with the National Association of Securities Dealers Regulation, Inc. on July 11, 1996, claimants Caroline & Robert Leentjes and Caroline Colie ("claimant"), through their representative Caroline Leentjes, who appeared Pro Se, alleged that her broker, Duane Ohly ("respondent") of Merrill Lynch, displayed a pattern of not taking care of her account. Claimant averred that on January 26, 1994, without authorization, respondent sold her 450 shares of Intel stock, valued at \$25,575.00. Claimant further alleged that she later asked respondent to invest the excess cash from her CMA account on a short term basis. Claimant also alleged that respondent purchased mutual funds and Cedar Fair stock, all long term investments although she told him that she would need the money on short notice. Claimant asserted that respondent misrepresented the mutual funds and failed to disclose that they were to be held for long term. Claimant further asserted that respondent is liable for the lost income.

Respondent Duane Ohly, by his representative Christopher D. Cavouti, Esq., in house counsel at Merrill Lynch, Pierce, Fenner & Smith, Inc., maintained that claimant authorized and ratified the Intel trade. Respondent further maintained that on February 23, 1994, claimant utilized the proceeds of the Intel stock to purchase Greater China Fund, Merrill Lynch Euro Fund and Merrill Lynch Latin America Fund, at approximately \$8,000.00 per fund. Respondent also maintained that claimant was mailed prospectus and trade confirmation notices. Respondent contended that he informed claimant of the objectives and risks of the mutual funds and also advised her that they were long term investments. Respondent further contended that claimant's claim is the result of the decline in the market value of her mutual funds.

**RELIEF REQUESTED**

Claimants Caroline & Robert Leentjes and Caroline Colie, requested \$6,150.00 in actual damages, plus filing fees.

Respondent Duane Ohly requested that claimants' claim be denied and that costs be assessed against claimants.

**AWARD**

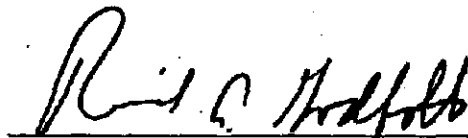
Pursuant to Section 10302 of the NASD Code of Arbitration Procedure, a single Public Arbitrator, Reid A. Godbolt, Esq., was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimants Caroline & Robert Leentjes and Caroline Colie on July 1, 1996 and by Respondent Duane Ohly on August 6, 1996.

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 Caroline & Robert Leentjes and Caroline Colie, against Respondent Duane Ohly are dismissed in their entirety.
2. All other relief requests are denied.
3. The parties shall bear their respective costs.
4. The \$150.00 filing fee previously deposited with the National Association of Securities Dealers Regulation, Inc. by the Claimants Caroline & Robert Leentjes and Caroline Colie shall be retained by the NASD, Inc.

**AFFIRMATION**

I, REID A. GODBOLT, 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 17, 1997