

The State of New Hampshire

Mailing Address

State House Room 204
Concord, New Hampshire 03301-4989
Telephone (603) 271-1463
Facsimile (603) 271-7933



Location

State House Annex
25 Capitol St.
Concord, New Hampshire 03301

Department of State Bureau of Securities Regulation

FOR IMMEDIATE RELEASE

CONTACT: Mark Connolly
Director of Securities Regulation
(603) 271-1472

STATE REACHES RECORD SECURITIES SETTLEMENT WITH MERRILL LYNCH REGARDING UNLAWFUL BROKER ACTIVITY

**Merrill Lynch to Pay \$575,000 Fine and Penalties; Notify and Arbitrate with All
Affected New Hampshire Investors and More**

Former Merrill Lynch Broker Barred for Life from Selling Securities in NH

CONCORD, NH (July 18, 2002) –The Securities Division of the New Hampshire Secretary of State's office announced today securities consent order settlements with Merrill Lynch and a former employee regarding the unlawful sales of unregistered securities and fraudulent business practices.

The consent order settlement with Merrill Lynch follows a lengthy investigation by the NH Securities Division into allegations that a former New Hampshire based Merrill Lynch employee, Mr. John David of Amherst, engaged in unlawful and high pressure sales tactics, misstatements to management and clients and the selling of unregistered securities. Mr. David was employed by Merrill Lynch at the company's Manchester branch office from September 1994 until his termination in August 1998.

In announcing the separate consent orders reached with Merrill Lynch and Mr. David, the Director of Securities Regulation for the State, Mark Connolly stated, "This investigation and the unprecedented fines and sanctions against Merrill Lynch and a former employee should put all securities firms and brokers operating in New Hampshire on notice that inappropriate sales practices will not be tolerated."

According to Jeffrey Spill, an attorney with the NH Securities Division and lead counsel for the case, the investigation revealed that Mr. David used unlawful tactics to encourage customers to purchase stocks through Merrill Lynch that were highly speculative and risky. In some cases, stock purchases resulted in the rapid decline of the value of client accounts.

Connolly commented, "Several of the stocks Mr. David sold were not registered as required by NH law. This fact, combined with the unusually high number of sales of these types of securities within the Manchester branch office, should have alerted Merrill Lynch management to act far sooner than they did. That one of its employees acted fraudulently is a very serious matter which calls for these unprecedented sanctions."

In making the announcement regarding his office's consent orders with Merrill Lynch and Mr. David, Connolly also noted that David has been censured by the New York Stock Exchange for engaging in inappropriate activities, including making false statements and failing to make proper security disclosures.

Under the consent order settlement, Merrill Lynch has agreed to the following actions and sanctions:

- Pay a fine to the State of New Hampshire in the amount of \$500,000. This is the highest fine ever paid in New Hampshire for a securities-related violation.
- Reimburse the state for an estimated \$75,000 in investigation costs.
- Notify all eligible investors who purchased certain securities of their right to an independent arbitration hearing paid for by Merrill Lynch. All investors found to be aggrieved by the actions of Mr. David would receive all of their invested funds back plus 10% annual interest on the funds invested.
- Hire an independent consulting firm to review the current compliance and policy procedures as well as the overall management in the firm's Manchester office. The consultant has to be approved by the NH Securities Division, and Merrill Lynch will be subject to reviews by the Bureau for compliance with the findings.
- Issue an alert to all Merrill Lynch offices addressing issues raised in the consent order and the resulting independent review.

The consent order with Merrill Lynch does not preclude investors from seeking court action instead of arbitration, if they so desire.

Under a separate consent order, Mr. David will be permanently barred from the securities business in New Hampshire. “Mr. David’s unlawful activities and his significant breach of responsibilities to his clients warrant his being permanently barred as a securities advisor in the state of New Hampshire,” said Connolly.

Neither Merrill Lynch nor Mr. David have admitted or denied the allegations filed against them by the Securities Bureau, but they did both voluntarily waive their rights to an administrative hearing or appeal.

“In this time of investor unease and disgruntlement with Wall Street, it’s especially important to remind corporate America that the interests of the Main Street investor must and will be vigorously protected,” concluded Connolly.