

County of Maui Student Loan Auction Rate Securities (SLARS)

Timeline : 2007-present

1. Between August 16, 2007 and January 16, 2008, the County of Maui purchased approximately \$44.2 million in Student Loan Auction Rate Securities (“SLARS”) through Merrill Lynch.
2. Between February 2007 and February 2008, Merrill Lynch represented to the County of Maui that SLARS were “money market alternatives” and safe, short-term investments.
3. During this time, Merrill Lynch also represented to the County of Maui that the SLARS market never had a failed auction, implying that the market was fully developed and liquid.
4. On February 26, 2007, Merrill Lynch provided a report to the County of Maui wherein Merrill Lynch stated that it “ha[d] never heard of an investor stuck into an extended auction against the investor’s wishes” implying that an investor could always liquidate its SLARS at auctions.
5. On April 26, 2007, Merrill Lynch strategists published a report called “An Overview of Auction Rate Student Loan ABS Market.” In this report, Merrill Lynch represented that “there ha[d] been no failed auctions in the student loan sector.”
6. In a Fixed Income Digest Special Edition dated December 6, 2007, Merrill Lynch represented that:
 - the auction rate securities market “offers extraordinary values for short-term yield-maximizing investors, not just the ultra short-term cash investor.”
 - “the auction preferred market offers excellent value for investors looking for short-term instruments or money market alternatives.”

- “[r]ates on auction preferred securities remain high while other rates are declining, creating what we think is extraordinary value for investors looking for short term instruments.”
7. On December 13, 2007, Merrill Lynch provided the County of Maui with a strategist’s report that reiterated “the strong credit quality and attractive yields” of SLARS and encouraged investors to invest in these securities.
 8. As late as February 12, 2008, the day before the collapse of the ARS market, Merrill Lynch provided an “Auction Market Securities Report” to the County of Maui wherein Merrill Lynch reiterated that ARS has only a “slightly lesser degree of liquidity” than money market funds and reminded investors that auctions “hardly ever” fail.
 9. Merrill Lynch’s representations were misleading. SLARS were not the safe, liquid investments they were marketed to be. SLARS were in fact different from highly liquid investments such as money market funds.
 10. On or about February 13, 2008, Merrill Lynch abandoned its practice of supporting auctions for SLARS. The ARS market collapsed. The County of Maui was left stranded with SLARS that they purchased on and after August 16, 2007 that they could no longer sell at par. Today, the County of Maui owns \$32 million of SLARS that are not liquid.
 11. Had Merrill Lynch honestly disclosed to the County of Maui the growing risks associated with investing in SLARS the County of Maui would not have purchased SLARS at all.
 12. For these reasons, the County of Maui is pursuing claims against Merrill Lynch for the misrepresentations made regarding the nature and liquidity of SLARS.