

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between

George Womer

Claimant

vs.

CASE #87-02459
AWARD

Merrill Lynch Pierce Fenner & Smith, Inc.
Robert Berry
Diane Spencer

Respondents

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on December 7, 1987 Claimant George Womer alleged the Respondents breached their contractual and fiduciary duties owed to him by failing to follow instructions to purchase thirty puts as he had ordered causing substantial damages to the Claimant. Respondents Merrill Lynch Pierce Fenner & Smith, Inc., Robert Berry and Diane Spencer maintained that Claimant's order was originally placed for three contracts, that the size of the order was repeated to him numerous times and that the Claimant enjoyed a windfall additional profit on the transactions in issue by virtue of a duplicate ticket which resulted in an execution of six contracts rather than three.

RELIEF REQUESTED

Claimant requested damages of \$136,354.82 plus interest at 10% per annum from October 20, 1987 to the date of the award. Respondents requested dismissal of Claimant's claim.

AWARD

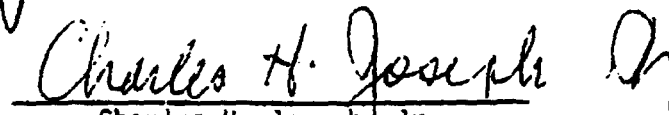
On February 14, 1990 the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed by the Claimant George Womer on November 30, 1987 and by Respondent Merrill Lynch Pierce Fenner & Smith, Inc. on March 25, 1988 and by Respondent Robert Berry on February 8, 1990 and by Respondent Diane Spencer on February 8, 1990. The hearing was held at the offices of the National Association of Securities Dealers, Inc. located in Cleveland, Ohio and consisted of two (2) hearing sessions. The arbitration panel, having considered the pleadings, the testimony, and the evidence presented at the hearing, has determined in full and final resolution of the issues submitted for determination as follows:

1. The Respondents Merrill Lynch Pierce Fenner & Smith, Inc., Robert Berry and Diane Spencer be and hereby are liable jointly and severally and shall pay to the Claimant George Womer the sum of One Hundred Twenty Nine Thousand Dollars and No Cents (129,000.00), inclusive of interest.
2. The parties shall each bear their respective costs including attorneys' fees.
3. Pursuant to Section 43 of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall retain the \$750.00 filing fee previously deposited by the Claimant. In addition, the Respondents Merrill Lynch Pierce Fenner & Smith, Inc., Robert Berry and Diane Spencer be and hereby are liable jointly and severally and shall pay to the National Association of Securities Dealers, Inc. the sum of \$750.00 to represent forum fees.

CONCURRING ARBITRATORS


Robert J. Asman, Esq.


Jonathan I. Klein, Esq.


Charles H. Joseph Jr.

DATED: MARCH 30, 1990