

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In The Matter of The Arbitration Between

Esther M. Britton

Claimant

Award

vs.

NASD #88-00913

Merrill Lynch, Pierce, Fenner & Smith, Inc. and Louis A. Santisteven

Respondents

Heard Before the Arbitration Panel:

Margaret Kallman
Kathryn J. Toronto
Wendell W. Witter

SUMMARY OF ISSUES

This case was filed on March 21, 1988. Claimant alleged that she had no knowledge of how investments and stocks were handled and that her deceased husband had handled all the financial matters for the family. Claimant alleged that when her husband died she relied completely on Louis Santisteven, who was employed by Merrill Lynch as a financial counselor and adviser, to advise her. Claimant alleged that Respondent Santisteven had complete control over Claimant's investment portfolio. Claimant alleged that Respondent convinced her to sell stock in her portfolio, including approximately half of her common stock in Farmers Group Insurance Company, and talked her into buying an unsuitable investment, namely a \$1,000,000.00 single premium variable life insurance policy with Monarch. Respondents alleged that 1) the sale of half of Claimant's Farmers Group stock was done to diversify her investment portfolio and was suitable and 2) the purchase of the Monarch Prime Plan V policy was suitable because the policy met Claimant's financial needs. Respondents alleged that Respondent Santisteven carefully and repeatedly discussed with Claimant the costs and benefits of selling the Farmers Group stock and purchasing the insurance policy.

DAMAGES AND RELIEF REQUESTED

Claimant sought damages in the amount of \$1,718,913.00, including attorneys' fees.

DAMAGES AND RELIEF AWARDED

On July 6 and 7, 1989, in San Francisco, California, the arbitrators heard the controversy in four sessions between the parties as set forth in submissions to arbitration signed by Claimant on March 8, 1988, by Respondent Merrill Lynch, Pierce, Fenner & Smith, Inc. on May 27, 1988 and by Respondent Louis A. Santisteven on May 25, 1988. 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. All claims of Claimant are dismissed.
2. The parties shall each bear their respective costs including attorneys' fees.
3. Pursuant to Section 43 of the National Association of Securities Dealers, Inc. (NASD) Code of Arbitration Procedure, the NASD shall retain the \$750.00 filing fee previously deposited by the Claimant. Further, pursuant to Section 43, Claimant is assessed forum fees in the amount of \$1,500.00, to be paid directly to the National Association of Securities Dealers, Inc.

OTHER ISSUES

Not applicable.

Date Served: 07/21/89