

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between :
Thomas Soong :
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 Claimant : Case #88-01126
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 vs. : AWARD
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 Merrill Lynch, Pierce, Fenner & Smith, Inc., :
 and Michael Lockhart :
 :
 Respondents :

CASE SUMMARY

Claimant Thomas Soong alleged that he wanted to open an IRA account with the Respondent Merrill Lynch, Pierce, Fenner & Smith, Inc., namely the Merrill Lynch Federal Securities Trust Fund. Claimant alleged that Respondent Michael Lockhart guaranteed that no commissions would be charged on the purchase of this Fund. Claimant further alleged that Respondent Lockhart never purchased this Fund for his account, but instead purchased the Merrill Lynch Retirement Income Fund. Claimant alleged he then informed Respondent Lockhart to close the Fund and return his monies, for which the Claimant was charged a commission. Claimant also alleged that he purchased shares in the Merrill Lynch Hubbard Income Realty Partnership VI, and was assured by Respondent Lockhart of the investment's complete liquidity. Claimant alleged he ordered the sale of this investment, and that the Respondents to date have not done so.

Respondents Merrill Lynch and Michael Lockhart denied any and all allegations of wrongdoing or liability in the Claimant's claim for damages. Respondents maintained the Claimant was fully informed that a commission would be charged on the sale of his Federal Securities Trust Fund. Moreover, Respondents contended the Claimant received a prospectus on the Merrill Lynch Hubbard Income Realty Partnership VI, and was fully apprised of the risks involved with this investment. Respondents further contended that they acted properly and that the Claimant authorized all trades.

RELIEF REQUESTED

Claimant Thomas Soong requested that his Merrill Lynch Hubbard Income Realty Partnership VI fund be closed and his \$2000.00 investment returned to him, plus \$454.97 in damages. Respondents Merrill Lynch, Pierce, Fenner & Smith, Inc. and Michael Lockhart requested dismissal of the claim in its entirety, plus costs.

AWARD

On December 12, 1989, the undersigned arbitrator heard the controversy between the parties as set forth in submissions to arbitration signed by Claimant Thomas Soong on April 1, 1988, and by Respondent Merrill Lynch, Pierce, Fenner & Smith, Inc. on May 24, 1988 and by Respondent Michael Lockhart on May 24, 1988. The hearing was held at the offices of the National Association of Securities Dealers, Inc. and consisted of one (1) hearing session. 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. Because this panel is convinced by the testimony of Mr. Soong and Mr. Lockhart that Mr. Soong never understood the particulars of the investments which Mr. Lockhart proposed to sell him, the panel finds that:

(a) Claimant Thomas Soong is entitled to the rescission of his Two Thousand Dollars and No Cents (\$2000.00) investment in the Merrill Lynch Hubbard Income Realty Partnership VI, and Respondent Merrill Lynch, Pierce, Fenner & Smith, Inc. be and hereby is ordered and directed to take whatever steps are necessary to extract Mr. Soong from this investment, and ~~return~~ Two Thousand Dollars and No Cents (\$2000.00); ~~without interest~~, to him forthwith;

(b) Respondent Merrill Lynch, Pierce, Fenner & Smith, Inc. be and hereby is liable and shall pay to the Claimant Three Hundred and Eighty Three Dollars and Eighty Two Cents (\$383.82).

2. All claims against Respondent Michael Lockhart be and hereby are dismissed in their entirety.
3. The parties each shall bear their respective costs including attorney's fees.

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4. Pursuant to Section 43 of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall retain the \$25.00 filing fee previously deposited by the Claimant as costs of the one (1) hearing session conducted in this matter.

CONCURRING ARBITRATOR

DEBORAH SHERMAN

STATE OF *New York*
COUNTY OF *New York*

S.S.:

On this day of , 1989, before me personally
appeared DEBORAH SHERMAN me known and known to me to be the individual desc-
ribed in and who executed the foregoing instrument and be duly acknowledged
to me that he executed the same

Jill a Wife

Not
Commission

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