

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between

SIGA INVESTMENTS CORPORATION, LTD.

Claimant

and

MERRILL LYNCH, PIERCE, FENNER &
SMITH, INC., GILBERT D. CASTANEDA et al.

Respondents

CASE NO. 88-01149

CASE SUMMARY *

SIGA Investments Corp., Ltd. ("Claimant") alleged as follows:

1. Gilbert Castaneda and Peter Gerrity, registered representatives of Merrill Lynch, Pierce, Fenner & Smith, Inc. (collectively referred to as "Respondents") misrepresented the following material facts: a) the risks of purchasing GNMA's on a leveraged basis, b) that the Respondents would closely monitor the Claimant's GNMA positions thereby eliminating risk; c) the markups charged on the GNMA's, d) the broker call rate; and e) the compensation that they received on the GNMA's.

2. Merrill Lynch failed to properly supervise their registered representatives;

3. Respondents embarked upon an enterprise to induce Mexican nationals to purchase highly leveraged GNMA's by making similar misrepresentations as set forth above;

4. The purchase of highly leverage GNMA's was an unsuitable investment for the Claimant;

5. Respondents violated a) Mexican law, b) various self regulatory rules including the "know your customer rule" and the suitability rules, c) Section 10(b) of the Securities and Exchange Act of 1934 and the rules promulgated thereunder, (d) the federal RICO statute, and (e) the California securities act;

6. Respondents breached their fiduciary duty to the Claimant and their contract with the Claimant;

7. Respondents engaged in common law fraud, and;

8. Merrill Lynch is liable for the acts of its registered representatives Castaneda and Gerrity under Section 20 of the Securities and Exchange Act of 1934 as a control person;

Respondents denied every claim of the Claimant and further alleged:

1. The Claimant retained International Consulting of the Pacific ("ICP") and Alonso Ayala Grimaud as their investment advisors, and relied and acted upon ICP's investment advice;

2. The Claimant relied upon the advice of ICP and Alonso Ayala Grimaud when it decided to purchase the leveraged GNMA's;

3. The Respondents advised the Claimant and its investment advisors and the Claimant and its investment advisors were aware of the risks of trading leveraged GNMA's;

4. The Respondents and others provided the Claimant and its investment advisors with the necessary information on a timely basis in order for the Claimant and its advisor to make informed decisions regarding its investments;

5. Claimant failed to mitigate its damages;

6. Claimant's claims are barred under the doctrine of estoppel;

7. Claimant and its agents were contributorily and comparatively at fault; and

8. Claimant's losses were due to unforeseen market circumstances.

RELIEF REQUESTED

Claimant requested the following damages:

1. Compensatory damages - \$3,534,528.00
Pre-award interest - 1,037,116.00
\$4,571,644.00
2. Treble damages on RICO claim - \$10,603,584.00
3. Punitive damages:
Castaneda -\$ 50,000.00
Gerrity -\$ 50,000.00
Merrill Lynch -\$7,069,000.00

* The above summary is a brief summary of the controverted issues in this case. It is not intended to cover all the issues or evidence presented at the hearing. The award by the arbitrators was based on the evidence presented and not the above summary.

AWARD

On April 13, 1988 the NASD received the Statement of Claim from the Claimant. On January 25th, 26th and 27th, 1990 and February 15th, 16th and 17th and 18th, 1990 during a hearing lasting eighteen (18) sessions, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed on April 8, 1988 by Roberto Segavin Kane on behalf of the Claimant, on July 18, 1988 by Daniel A. Golar on behalf of Merrill Lynch. Gilbert Castaneda stated he was submitting this matter to arbitration. Peter Gerrity appeared at the hearing and was represented throughout the hearing by counsel, however, he was reserving any submission of this matter to the NASD. The jurisdiction by the NASD over Peter Gerrity in this matter is pending before the Ninth Circuit Court of Appeals.

The arbitration panel, having considered the pleadings, the testimony, and the evidence presented at the hearing, has decided in full and final resolution of the issues submitted for determination as follows:

1. All claims asserted by the Claimant against the Respondents are hereby dismissed;
2. The parties shall bear their own attorneys' fees and costs;
3. Pursuant to Section 43(b) of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall refund as forum fees, the \$1,000.00 filing fee previously deposited with the NASD by the Claimant SIGA Investments Corporation, Ltd., and Merrill Lynch shall pay \$18,000.00 as forum fees to the NASD through its staff counsel.

Presiding Arbitrators

Dated: 03/05/90 /S/ David H. Rosenberg, Esq.

Dated: 03/05/90 /S/ Mr. Robert E. Warner

Dated: 03/06/90 /S/ Mr. John S. Davis

DATE SERVED: 03/19/90