

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

: In the Matter of the Arbitration Between	:	
:	:	
: Davie Hyman	:	
:	:	
:	:	
: vs.	:	
:	:	
: Merrill Lynch Pierce Fenner & Smith, Inc.	:	
: Louis A. Telerico	:	
:	:	
:	:	
: Respondents	:	
:	:	
:	:	

	CASE #88-01449
	AWARD

### CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on May 5, 1988, Claimant Davie Hyman alleged Respondents Merrill Lynch Pierce Fenner & Smith, Inc. and Louis A. Telerico repeatedly advised Claimant and caused her to purchase certain highly speculative securities which were totally unsuitable for Claimant and inconsistent with her stated investment objectives, while falsely representing to Claimant that such investments were suitable for her. Claimant further alleged Respondents caused Claimant to sell certain securities which she had purchased which were suitable and consistent with her investment objectives. Claimant further alleged that the aforementioned acts and conduct of Respondents constituted a breach of fiduciary duty, negligence, common law fraud, as well as violations of Section 77 (q) and 10(b) of the Securities and Exchange Act of 1934, and SEC Rule 10-b-5, for which damages should be awarded. Respondents maintained the Claimant had extensive prior experience in trading stocks upon opening her account and further maintained the Claimant received full and complete information concerning her account and the Respondent Louis A. Telerico called the Claimant prior to every transaction to obtain her approval. Respondents further maintained a sensible middle course was followed in advising the Claimant, tempering her need for high returns with her wish to protect her principal and further maintained her continual discussions with the Respondent Louis A. Telerico and the documentation provided by Merrill Lynch Pierce Fenner & Smith, Inc. kept her fully apprised of the status of her account.

RELIEF REQUESTED

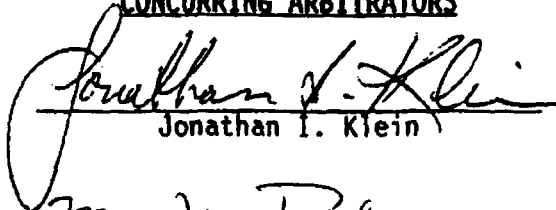
Claimant requested damages of \$270,386.00 together with reasonable attorneys' fees and costs of the arbitration. Respondents requested dismissal of all claims.

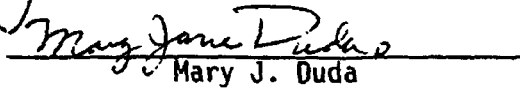
AWARD

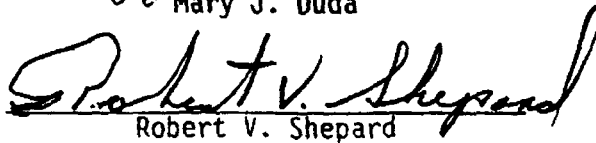
On April 9 and April 12, 1990 the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed by Claimant, Davie Hyman on May 1, 1988, by Respondent Merrill Lynch Pierce Fenner & Smith, Inc. on February 28, 1990 and by Respondent Louis A. Telerico on February 28, 1990. The hearing was held at the offices of the National Association of Securities Dealers, Inc. located in Cleveland, OH and consisted of four (4) 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 claims by the Claimant Davie Hyman be and hereby are denied in all respects.
2. The parties shall each bear their respective costs, including attorney's 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 and the Respondents Merrill Lynch Pierce Fenner & Smith, Inc. and Louis A. Telerico be and hereby are joint and severally liable and shall pay to the Claimant Davie Hyman the sum of \$750.00 to offset the filing fee. In addition, the Respondents Merrill Lynch Pierce Fenner & Smith, Inc. and Louis A. Telerico be and hereby are joint and severally liable and shall pay to the National Association of Securities Dealers, Inc. the sum of \$2,250.00 to represent forum fees.

CONCURRING ARBITRATORS

  
Jonathan I. Klein

  
Mary J. Duda

  
Robert V. Shepard

DATED: June 28th, 1990