

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between

John E. and Patricia M. Quick

Claimants

and

Merrill Lynch Pierce Fenner & Smith and
William M. Ten Eyck

Respondents

AWARD

Case No. 88-01465

CASE SUMMARY

In a claim filed with the NASD on May 6, 1988, Claimants John E. Quick and Patricia M. Quick ("Claimants") alleged that Respondent Merrill Lynch Pierce Fenner & Smith, Inc. ("Merrill Lynch") and Respondent William W. Ten Eyck ("Ten Eyck") (collectively as "Respondents") made unsuitable recommendations and misrepresentations with regard to the opening of a margin account. Claimants also allege violations of 18 U.S.C. Sections 1961 et seq. ("RICO").

In their joint answer filed with the NASD on August 10, 1988, Respondents denied that misrepresentations or unsuitable recommendations were made to Claimants. Respondents also denied the allegations of violations of the RICO statutes. Respondents affirmatively stated that Claimants were fully informed and understood the risks involved in a margin account, that in fact, Claimants had engaged in trading in their margin account since 1972. Respondents further state that Claimants suffered no damages.

RELIEF REQUESTED

Claimants requested an award in the amount of \$439,531.00 as compensatory damages; RICO damages; punitive damages in the amount of \$1,318,593.00; costs and attorney's fees.

Respondents requested an award denying the Statement of Claim and an award of their costs and attorney's fees.

AWARD

On Monday, February 19, 1990 in Southfield, Michigan, during a hearing lasting two (2) sessions, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed on May 4, 1988 by Claimants John E. Quick and Patricia M. Quick, on August 4, 1988 by Dennis L. Gabel on behalf of Respondent Merrill Lynch Pierce Fenner & Smith, Inc. and on August 4, 1988 by Respondent William M. Ten Eyck.

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. The Statement of Claim shall be and hereby is dismissed and denied in its entirety;

2. Each party shall bear their own respective costs and expenses not specifically enumerated herein including attorney's fees; and

3. Pursuant to Section 43(b) of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall retain as forum fees, the \$1,000.00 filing fee previously deposited with the NASD by the Claimants.

By the Panel

Dated: February 19, 1990

/S/ James C. Steffl, Esq.
Presiding Chair

Dated: February 19, 1990

/S/ Michele Verlinden

Dated: February 19, 1990

/S/ Edward C. Pedersen, Esq.