

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between

Merrill Lynch, Pierce, Fenner & Smith, Inc.

Claimant

vs.

Jerome Rothstein

Respondent

CASE #88-02662  
AWARD

CASE SUMMARY

In a claim filed at the NASD on August 22, 1988, Claimant Merrill Lynch Pierce Fenner & Smith, Inc. ("Merrill") alleged that Respondent Jerome Rothstein ("Rothstein") failed to meet the maintenance call in Respondent Rothstein's account. Merrill alleged that in accordance with the maintenance call requirement and the liquidation provision of the customer agreement, Merrill liquidated Rothstein's account. The liquidation resulted in a debit balance in Rothstein's account which Merrill seeks to recover. Rothstein maintained that his broker failed to return his phone calls on Friday October 16, 1987, and that he was not given timely notice of the maintenance call placed on his account. Rothstein maintained that he was not given adequate time to make the requested deposit. Rothstein asserted a counterclaim for Merrill's negligence and or intentional action.

RELIEF REQUESTED

Claimant requests damages in the amount of \$12,658.72. Respondent requests damages in the amount of \$30,000.00.

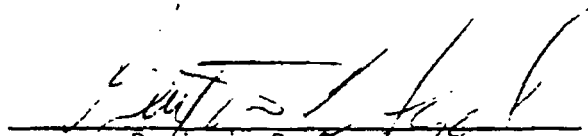
AWARD

On August 24, 1988 in Columbus, Ohio, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed by Claimant Merrill Lynch Pierce Fenner & Smith, Inc. on August 16, 1988, and by Respondent Jerome Rothstein on October 24, 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:

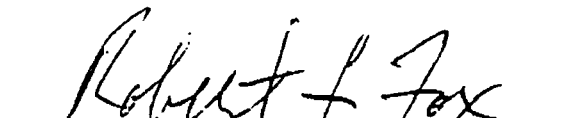
1. That Respondent is liable and shall pay to the Claimant the sum of Twelve Thousand Six Hundred and Fifty Eight and 72/100 Dollars (\$12,658.72). No interest is awarded on this amount.

2. Respondent's counterclaim is denied in all respects.
3. Pursuant to Section 43 of the Code of Arbitration Procedure, forum fees for the August 24, 1989 double session hearing shall be equally assessed against Claimant and Respondent. Claimant's \$400.00 filing fee shall be retained by the National Association of Securities Dealers, Inc. and applied against the forum fee, such that no monies are due from the Claimant as a forum fee. Respondent shall pay the National Association of Securities Dealers, Inc. \$400.00 as a forum fee.
4. The parties shall each bear their respective costs including attorney's fees.

ARBITRATORS CONCURRING

  
Benjamin B. Segel

  
Andrew M. Temin

  
Robert L. Fox

Dated: September 22, 1989