

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between)
MARY GAY ASSELIN)
)
) Claimant)
) and)
)
MERRILL LYNCH, PIERCE, FENNER & SMITH,)
INC.)
) Respondent)

CASE NO. 88-02670

CASE SUMMARY

Mary Gay Asselin ("Claimant") alleged that Merrill Lynch, Pierce, Fenner & Smith, Inc. ("Respondent") misrepresented and failed disclose all of the material facts related to the Franklin U. S. Government Securities Fund. Additionally, the Claimant alleged that such fund was unsuitable for the Claimant and no prospectus was delivered to the Claimant. Respondents denied the Claimant's claims.

RELIEF REQUESTED

Claimants requested damages in the amount \$17,079.20 which includes interest and attorneys' fees. Respondent requested that the claims of the Claimant be dismissed and it be awarded its attorneys' fees and costs.

AWARD

The Claimant filed her claim with the NASD on August 22, 1988. On January 4 and 17, 1990 the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed on August 4, 1988 by the Claimant, and on November 18, 1988 by Gregory Garner on behalf of the Respondent. The hearing was held in four sessions in Kansas City, Missouri.

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 Respondent are hereby dismissed;

2. The parties shall bear their own costs including attorneys' fees;

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 \$200.00 filing fee previously deposited with the NASD by the Claimant and the Claimant shall pay an additional \$200.00 as forum fees to the NASD through its staff counsel. Also, Respondent Merrill Lynch, Pierce, Fenner & Smith, Inc. shall be assessed \$400.00 as additional forum fees.

By the Panel

Dated: 3-9-90 /S/ Reggie C. Giffin, Esq.
Presiding Chair

Dated: 3-9-90 /S/ Michael William Gear

Dated: 3-8-90 /S/ Walter E. Knowles

Date Served: 3-19-90