

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between		}	CASE NO. 88-02819
John J. Blair	Claimant		
vs.			
Merrill Lynch, Pierce, Fenner and Smith, Inc.	Respondents		
Gregg A. Phillips			

Heard before:

James A. Knowles  
John B. Reilley  
Thomas W. Borden

SUMMARY OF ISSUES

This claim was filed September 6, 1988. Claimant alleged that Respondents churned his account, bought unsuitable securities, breached their fiduciary duty made unauthorized trades and misrepresented material facts concerning his account. Respondents maintain that all trades were authorized, that the options trades were initiated by Claimant and further that the alleged unsuitable securities were suitable in light of Claimant's financial position and investment objectives. Respondents also maintain that they did not breach any fiduciary duty to Claimant, nor did they make any misrepresentations.

DAMAGES AND RELIEF REQUESTED

Claimant requested damages, in the First Amended Statement of Claim, of \$54,200.00 including attorneys' fees. Respondents requested dismissal of claims and an award of costs.

DAMAGES AND RELIEF AWARDED

On August 3rd and October 11th and 12th, 1989, in six (6) sessions, in San Francisco, California, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed by Claimant on August 31, 1988 and by Respondent Merrill Lynch on November 21, 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. All claims brought by Claimant are dismissed.

2. Respondent Merrill Lynch, Pierce, Fenner and Smith is assessed forum fees in the amount of \$3,000.00. This amount is payable to the NASD through its representative.

3. The parties shall each bear their respective costs including attorneys' fees.

4. Pursuant to Section 43 of the National Association of Securities Dealers, Inc. ("NASD") Code of Arbitration Procedure, the NASD shall refund the \$500.00 filing fee previously deposited by the Claimant.

#### OTHER ISSUES

All claims against Gregg A. Phillips were dismissed with prejudice at the first hearing session.

DATE SERVED: 10/23/89