

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant(s)

Merrill Lynch Pierce Fenner & Smith, Inc.

88-03178

Name of Respondent(s)

Gary E. Bullock
Velma V. Bullock

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. ("NASD") on or about October 14, 1988, Claimant Merrill Lynch, Pierce, Fenner & Smith, Inc. alleged that Respondent Gary E. Bullock and Velma V. Bullock purchased common stock in their respective accounts and failed to pay for said stock. Claimant demanded payment, but was refused. The accounts were closed out and the securities sold, leaving a debit balance in the Respondent's accounts.

In a Statement of Answer filed with the NASD on June 15, 1989, Respondents Gary E. Bullock and Velma Bullock denied owing any money to Claimant, alleging that:

1. Claimants and its agents misrepresented the buy out of Shometown, Inc. in order to induce the purchase of the stock and Gary Bullock bought the stock based on these representations;
2. The account representative handling the Bullock accounts was not registered in the State of Louisiana where Velma Bullock resided;
3. Claimant and its agents failed to promptly, or properly, execute the liquidation of the Respondent's accounts, resulting in the debit balance;
4. Claimants and its agents violated the fiduciary duty owed to the Respondents by their failure to execute the sale of the accounts as instructed by Gary Bullock; and

5. Claimant failed to adequately supervise its employees to prevent the above conduct.

Based upon the above allegations, Respondents claimed a set-off in the amount of the losses incurred.

RELIEF REQUESTED

Claimant Merrill Lynch, Pierce, Fenner & Smith, Inc. requested entry of an award against Respondents Gary E. Bullock and Velma V. Bullock in the amount of \$6,686.16 from Gary E. Bullock and the amount of \$13,073.01 from Velma V. Bullock, plus interest at a reasonable rate, attorneys' fees and costs from both Respondents.

Respondents Gary E. Bullock and Velma V. Bullock requested that the Statement of Claim be dismissed, and further requested that all losses incurred as a result of Claimant's alleged misconduct be made good.

OTHER ISSUES

A court order compelling this matter to arbitration was entered in the Circuit Court of Ashley County, Arkansas on June 23, 1988 in Case No. 87-67-1, captioned Merrill Lynch, Pierce, Fenner & Smith, Inc., Plaintiff v. Gary E. Bullock and Velma E. Bullock, Defendants.

A pre-hearing conference was held by telephone on December 27, 1990 for the purpose of settling outstanding discovery matters before the Presiding Chair, Patrick A. Burrow.

At the hearing on April 10, 1991, Respondent Gary E. Bullock amended his claim and requested relief in the amount of \$500,000.00 in punitive damages.

AWARD

On April 10 & 11, 1991 in Little Rock, Arkansas during a hearing lasting four (4) sessions, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed on February 21, 1989 by Leo H. Roepke on behalf of Claimant, Merrill Lynch, Pierce, Fenner & Smith, Inc.; on June 13, 1989 by Respondent Gary E. Bullock; and, on April 11, 1991 by Respondent Velma V. Bullock.

The parties have agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award be entered. In either case, the parties have agreed to receive conformed copies of the Award while the originals remain on file with the NASD.

The arbitration panel, having considered the pleadings, the testimony, and the evidence presented at the hearing, has decided the full and final

resolution of the issues submitted for determination as follows:

1. Respondent Gary E. Bullock is liable for and shall pay to the Claimant Merrill Lynch, Pierce, Fenner & Smith, Inc. the sum of \$6,686.16, plus interest at the rate of 10% per annum from March 20, 1987 until the amount is paid;
2. Respondent Velma V. Bullock is liable for and shall pay to the Claimant Merrill Lynch, Pierce, Fenner & Smith, Inc. the sum of \$13,073.01, plus interest at the rate of 10% per annum from March 20, 1987 until the amount is paid;
3. Respondent Gary E. Bullock and Velma V. Bullock are liable for and shall pay to Claimant Merrill Lynch, Pierce, Fenner & Smith, Inc. the sum of \$1,500.00 from each Respondent, for a total amount of \$3,000.00, as attorneys' fees. In determining to award attorneys' fees to Claimant, the panel considered paragraph 8 of the Merrill Lynch, Pierce, Fenner & Smith, Inc. Customer Agreement signed by Velma V. Bullock and time stamped September 3, 1986 and the State of Arkansas Code Annotated Sec. 16-22-308.
4. In addition, Respondent Gary E. Bullock is liable for and shall pay to Claimant Merrill Lynch, Pierce, Fenner & Smith, Inc. the sum of \$125.00 as witness costs for Cindy Looney;
5. All claims asserted by Respondents are hereby dismissed and denied in their entirety; and
6. Pursuant to Section 43(c) of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall retain the \$500.00 non-refundable filing fee and refund the hearing session deposit in the amount of \$400.00 previously deposited with the NASD by the Claimant Merrill Lynch, Pierce, Fenner & Smith, Inc. Respondent Gary E. Bullock is liable for and shall pay to the NASD forum fees in the amount of \$1,900.00.

By the Panel

Dated: April 11, 1991

Patrick A. Burrow, Esq.
Presiding Chair

Dated: April 11, 1991

John L. Porter

Dated: April 11, 1991

Robert T. Allen, Jr.
Industry Arbitrator

Date Served: 4-16-91