



N.A.S.D. AWARD

Arbitration

NATIONAL ASSOCIATION OF SECURITIES DEALERS

National Association of
Securities Dealers, Inc.
NASD Financial Center
33 Whitehall Street
New York, New York 1000

In the Matter of the Arbitration Between

Name of Claimant(s)

Richard Horian

88-03671

Name of Respondent(s)

Merrill Lynch, Pierce, Fenner & Smith
Arnold Alson

REPRESENTATION

For Claimant: Laurence Schultz, Esq. of Driggers, Schultz, Herbst & Paterson.

For Respondents: Clarence L. Pozza, Jr. of Miller, Canfield, Paddock And Stone.

CASE INFORMATION

Statement of Claim filed: 11/28/88.

Claimant's Submission Agreement signed on: 10/26/88.

Respondent, Merrill Lynch, Pierce, Fenner & Smith's Submission Agreement and Corporate Acknowledgment signed by John R. Cummings on behalf of the firm on: 3/15/89.

A Joint Statement of Answer filed by Respondents, Merrill Lynch, Pierce, Fenner & Smith, Inc. and Arnold Alson on: 3/3/89.

HEARING INFORMATION

Hearing Dates-11/19/90; 11/20/90; 12/18/90; 12/19/90; 1/17/91; 1/31/91; 2/1/91; 4/3/91; 4/4/91; 4/5/91; 4/11/91; 4/12/91; 4/13/91; 6/6/91-two sessions each day for a total of: Twenty Eight (28) Sessions.

Hearing Location: Troy MI

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CASE SUMMARY

Claimant, Richard Horian, alleged that due to massive trading in his account in late 1983 and 1984 in S & P 100 options by his broker at Respondent Firm Merrill Lynch, Pierce, Fenner & Smith, Inc. ("Merrill"), Arnold Alson (Alson), Claimant sustained substantial losses. Claimant alleged that these trades were based upon misrepresentations and deceptive devices; that they constituted churning and were unsuitable for Claimant. Claimant also alleged that Merrill failed to supervise its employee-Alson in his trading activity and also made extreme errors in Claimant's account statement which materially misrepresented the status of Claimant's account and disguised the existence of the losses.

Respondent maintained that Claimant is a tough, experienced millionaire businessman who had substantial options and investment experience who actively traded options and stock on margin for years and who controlled and directed the trading in the accounts at issue. Respondents contended that Claimant waited over four years to initiate this Claim and that the lengthy delay demonstrated the lack of merit in Claimant's position. Respondents further contended that Claimant's Claims are barred by Claimant's negligence, that the Claims are barred by virtue of the written agreements between the parties. Respondents maintained that they acted in good faith at all times.

RELIEF REQUESTED

Claimant requested a total award in the amount of \$4,347,750.00 including costs and exemplary damages of \$3,000,000.00, plus attorneys' fees and interest.

Respondents requested that the Claim be denied in all respects and dismissed with prejudice, that they be awarded costs and attorneys' fees and that they be awarded such other relief as the panel deems just.

AWARD

After considering the pleadings, the testimony and the evidence presented at the hearing, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

(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).

1. Respondent, Merrill Lynch, Pierce, Fenner & Smith, Inc., shall pay to Claimant, Richard Horian, the sum of Two Hundred Thousand Dollars and No Cents (\$200,000.00);

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2. Additionally, Respondents, Merrill Lynch, Pierce, Fenner & Smith, Inc. and Arnold Alsen are jointly and severally liable and shall pay to Claimant, Richard Harian the sum of Fifty Thousand Dollars and No Cents (\$50,000.00);
3. Claimant's Claim for exemplary damages shall be and is hereby dismissed in all respects;
4. The parties shall each bear their respective costs, including attorneys' fees;
5. Pursuant to Section 43 of the Code of Arbitration Procedure, the NASD, Inc. shall retain the \$1,000.00 filing fee previously deposited by the Claimant.

FORUM FEES

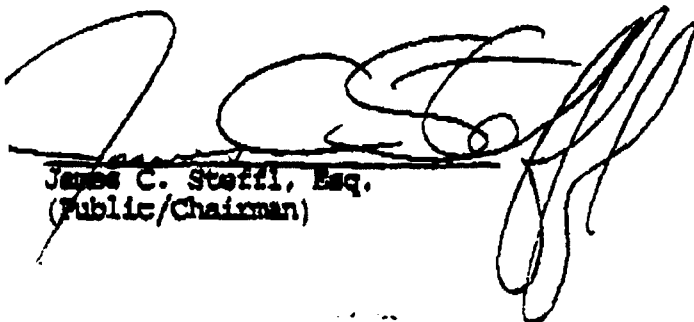
Pursuant to Section 43c of the Code of Arbitration Procedure, the following Forum Fees are assessed.

Respondent, Merrill Lynch, Pierce, Fenner & Smith, Inc., is hereby assessed forum fees in the amount of \$27,600.00 - (28 sessions X 1,000 = \$28,000 minus hearing session deposit of \$1,000 - 2 pre-hearing sessions (Discovery) X \$300 = net \$27,600.00 due).

Fees are payable to the National Association of Securities Dealers, Inc.

ARBITRATION PANEL

Concurring Arbitrator's Signature


James C. Steffl, Esq.
(Public/Chairman)

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2. Additionally, Respondents, Merrill Lynch, Pierce, Fenner & Smith, Inc. and Arnold Alson are jointly and severally liable and shall pay to Claimant, Richard Morian the sum of Fifty Thousand Dollars and No Cents (\$50,000.00);
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ARBITRATION PANEL

Concurring Arbitrator's Signature

Harold I. Gach 8/15/91
Harold I. Gach
(Industry/Panelist)

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2. Additionally, Respondents, Merrill Lynch, Pierce, Fenner & Smith, Inc. and Arnold Alson are jointly and severally liable and shall pay to Claimant, Richard Horian the sum of Fifty Thousand Dollars and No Cents (\$50,000.00);
3. Claimant's Claim for exemplary damages shall be and is hereby dismissed in all respects;
4. The parties shall each bear their respective costs, including attorneys' fees;
5. Pursuant to Section 43 of the Code of Arbitration Procedure, the NASD, Inc. shall retain the \$1,000.00 filing fee previously deposited by the Claimant.

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ARBITRATION PANEL

Concurring Arbitrator's Signature

A handwritten signature in black ink, appearing to read 'Mauricio Kohn', written over a horizontal line.

Mauricio Kohn
(Public/Panelist)