

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between	}	
Richard J. Madden,		
Claimant		Case #88-03882
vs.		Award
Merrill Lynch, Pierce, Fenner & Smith, Inc.,		
Respondent		

CASE SUMMARY

Claimant filed the above-captioned matter for arbitration on December 20, 1988. He alleged in the claim that Respondent failed to advise him of the inherent risks involved in highly speculative index option trading on margin, and that there was a violation of Securities Exchange Act Section 9(b) and Rule 9b-1. Claimant also alleged unsuitability and inappropriateness as to the transactions in question.

Respondent maintained that it has no liability for the losses incurred in Claimant's account because Claimant continued to trade index options despite the fact that he had been given notice and had knowledge by other means that he could be subject to substantial losses. It is Respondent's position that the Claimant was advised, and knew, of the inherent risks involved in trading index options.

RELIEF REQUESTED

Claimants requested damages of \$413,252.48, plus interest and attorneys' fees. Respondent requested dismissal of the claim.

AWARD

On October 31, 1989 and November 28, 1989, for a total of five(5) sessions, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed by the Claimant on March 24, 1988 and by the Respondent on February 21, 1989. The arbitration panel, having considered the pleadings, the testimony, and the evidence presented at the hearing, has determined the final resolution of the issues submitted for determination as follows:

A. The claim of the Claimant shall be and hereby is dismissed in all respects.

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

C. Pursuant to Section 43 of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall retain the \$750.00 filing fee previously deposited by the Claimant.

D. The Claimant is assessed forum fees in the amount of \$3,000.00 payable to the NASD, Inc. in accordance with Section 43 of the Code of Arbitration Procedure.

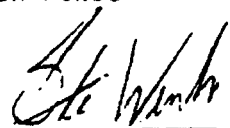
ARBITRATORS CONCURRING



Martin Fogelman, Esq.



Ron Pekoe



Stuart Winkler

Dated: December 29, 1989