

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

10/14
In the Matter of the Arbitration Between
Toledo Edison Federal Credit Union
vs.
Merrill Lynch Pierce Fenner & Smith, Inc.
Joseph K. Grossman
Respondents
CASE #89-00012
AWARD

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on January 13, 1989, the Claimant, Toledo Edison Federal Credit Union (sometimes referred to as "Credit Union") alleged the Respondents, Merrill Lynch Pierce Fenner & Smith, Inc. ("Merrill Lynch") and Joseph K. Grossman ("Grossman"), misrepresented to the Claimant that all investments entered into were appropriate and suitable for federally insured credit unions, expressly assured and represented to Claimant that all investments were permissible and legal for such credit unions, and that Claimant relied on these representations to its detriment. Claimant further alleged Merrill Lynch failed to supervise the activities of Grossman and breached the fiduciary duty to do so owed to the Claimant.

Respondents Merrill Lynch and Grossman maintained the Credit Union, through its duly designated representatives, authorized all transactions, and all investments were consistent with the Credit Union's investment objectives. Further, Respondents allege that the Credit Union's Board of Directors had the ultimate legal responsibility for the investments made. Respondents further contend a prospectus was timely delivered to the Credit Union, and that it was at all times kept apprised of the nature and performance of its investments through information provided by Grossman and the monthly statements from Merrill Lynch. Respondents further maintained the responsibility for compliance with any applicable rules and regulations rested solely and ultimately with the Credit Union.

RELIEF REQUESTED

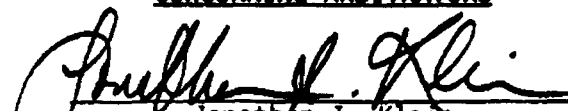
Claimant requested damages of \$196,295.68 together with interest at the statutory rate of 10% per annum from August 25, 1987 to the present, plus punitive damages of \$500,000.00, plus attorneys' fees and forum costs. Respondents requested dismissal of claim and that costs be assessed against Claimant.

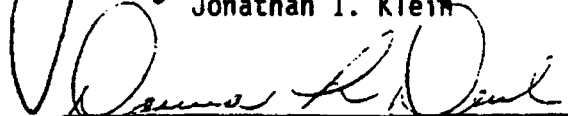
AWARD

On May 21, 1990 the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed by Claimant Toledo Edison Federal Credit Union on January 11, 1989 and by Respondent Merrill Lynch Pierce Fenner & Smith, Inc. on March 20, 1989 and by Respondent Joseph K. Grossman on March 29, 1989. The hearing was held at the offices of the National Association of Securities Dealers, Inc. located in Cleveland, OH and consisted of two (2) hearing sessions. 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. The Panel finds in favor of the Claimant Toledo Edison Federal Credit Union, and against Respondents Merrill Lynch, Pierce Fenner & Smith, Inc. and Joseph K. Grossman, joint and severally, in the amount of One Hundred Forty Six Thousand Six Hundred Eighty Eight Dollars and No Cents (\$146,688.00) compensatory damages, inclusive of interest.
2. Forum fees in the amount of One Thousand Dollars and No Cents (\$1,000.00) are hereby assessed against the Respondents, joint and severally.
3. The parties shall each bear their respective costs, including attorney's fees.
4. Pursuant to Section 43 of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall retain the \$1,000.00 filing fee previously deposited by the Claimant.

CONCURRING ARBITRATORS


Jonathan I. Klein


Donna L. Devlin


Henry Ott-Hansen

DATED: August 22, 1990