

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between	:	
	:	
	:	
Warren J. Moore	:	AWARD
	:	
Claimant	:	#89-00291
vs.	:	
	:	
	:	
Merrill Lynch, Pierce, Fenner & Smith, Inc.	:	
	:	
Respondent	:	
	:	

Claimant Warren J. Moore (hereinafter "Claimant") alleged that Respondent Merrill Lynch, Pierce, Fenner & Smith, Inc. (hereinafter "Respondent") committed gross negligence in its failure to supervise the activities of Respondent's financial consultant Darrell S. Current (hereinafter "Broker"). Claimant alleged that Respondent's Broker persuaded the Claimant into investing in the steel industry. Claimant alleged that he was persuaded by the Broker into purchasing 45,000 shares of Top Brass Enterprises (hereinafter "Top Brass"). Claimant alleged that Top Brass filed bankruptcy on August 27, 1986. Claimant alleged that Respondent or the Broker either knew or should have known Top Brass' financial situation prior to soliciting Claimant to purchase stock in Top Brass.

Respondent categorically denied each and every allegation in Claimant's claim. Respondent maintained that neither Respondent nor any of its agents conducted themselves improperly in connection with any of the Claimant's transactions in Claimant's account. Respondent specifically maintained that the idea to look into Top Brass as an investment was Claimant's idea. Respondent maintained that Claimant/ refused to sell his shares of Top Brass at a time when he could have mitigated his losses. Respondent maintained that it was Claimant's decision to purchase and retain Top Brass. Respondent maintained that all losses attributable to Claimant's account are his responsibility and not the responsibility of Respondent.

Relief Requested

Claimant requested compensatory damages in the amount of \$88,082.21, interest in the amount of \$14,737.30 and punitive damages in the amount of \$300,000.00 for a total claim of \$402,819.51.

Respondent requested that Claimant's claim be dismissed in its entirety with costs assessed against Claimant.

Award

On Tuesday, February 27, 1990, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed by Claimant on January 27, 1989 and by Respondent on May 12, 1989. The hearing was held in Louisville, Kentucky and consisted of 2 hearing sessions. The arbitrators, 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. That the Claimant's claim is denied in its entirety.
2. The parties shall each bear their respective costs including attorney fees.
3. Pursuant to Section 43 of the Code of Arbitration Procedure, the forum fees are equally assessed against the Claimant and the Respondent. Claimant is assessed forum fees in the amount of \$750.00, however, Claimant is entitled to offset this amount by his filing fee such that no monies are due from the Claimant as a forum fee. Respondent is assessed forum fees in the amount of \$750.00. Forum fees are payable to the NASD, Inc. through its staff counsel in accordance with Section 43 of the Code of Arbitration Procedure.

CONCURRING ARBITRATORS

/s/  
Andrew M. Temin

/s/  
William A. Rees

/s/  
John J. Wingfield