

IN THE MATTER OF THE ARBITRATION BETWEEN :  
:  
Peter Victor :  
:  
Claimant : Case #89-00708  
:  
vs. : AWARD  
:  
Merrill Lynch Pierce Fenner & Smith, Inc. :  
Caroline Kelly :  
:  
Respondents :

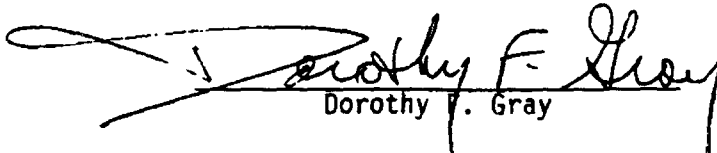
In a claim filed with the National Association of Securities Dealers, Inc. on March 13, 1989 Claimant Peter Victor alleged the Respondents recommended investments which were unsuitable to his investment needs and objectives and breached the fiduciary duty owed to the him. Respondents Merrill Lynch Pierce Fenner & Smith, Inc. and Caroline Kelly maintained all investments were made at Claimant's instructions and with his express authorization and were suitable for him. Respondents Merrill Lynch Pierce Fenner & Smith, Inc. and Caroline Kelly further maintained Claimant was in frequent contact with Merrill Lynch Pierce Fenner & Smith, Inc. and Caroline Kelly to obtain market information and prices and was in a position on a daily basis to value his portfolio and any damages sustained by Claimant were as a result of market fluctuations and Claimant's own failure to mitigate his damages.


Claimant Peter Victor requested damages of \$98,000.00. Respondents Merrill Lynch Pierce Fenner & Smith, Inc. and Caroline Kelly requested dismissal of claim.

On June 18, 1990, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed by Claimant Peter Victor on November 28, 1988, by Respondent Merrill Lynch Pierce Fenner & Smith, Inc. on June 21, 1989, and by Respondent Caroline Kelly on June 18, 1990. The hearing was held at the offices of the National Association of Securities Dealers, Inc. located in New York, NY 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 claims by the Claimant Peter Victor be and hereby are dismissed in all respects.
2. The parties shall each bear their respective costs, including attorneys' fees.
5. Pursuant to Section 43 of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall retain the \$500.00 filing fee previously deposited by the Claimant. In addition, the Respondent Merrill Lynch Pierce Fenner & Smith, Inc. be and hereby is liable and shall pay to the National Association of Securities Dealers, Inc. the sum of \$500.00 to represent forum fees.

CONCURRING ARBITRATORS

  
Dorothy F. Gray

  
Barry Feiden

  
Robert Ira Rabinowitz

DATED: June 18, 1990