

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between)	
Jeannie Driver)	
Claimant)	
vs.)	AWARD
)	
Merrill Lynch, Pierce, Fenner)	NASD NO. 89-01302
& Smith, Inc.)	
Respondent)	

SUMMARY OF ISSUES

This case was filed with the National Association of Securities Dealers, Inc. ("NASD") on May 2, 1989. Claimant alleged the following: fraud and breach of fiduciary duties, negligent misrepresentation and breach of fiduciary duties in securities transactions, rescission and restitution and unauthorized trading involving purchase of options and stock.

Respondent denied each and every allegation of claimant and alleged the following affirmative defenses: 1) laches, 2) failure to state claims upon which relief can be granted, 3) alleged losses were proximately caused by claimant's own conduct or that of a negligent third party, 4) good faith, 5) waiver, 6) disclosure made to claimant who assumed risk, 6) claimant failed to diligently manage her accounts and 8) punitive damages not recoverable, 9) demand for punitive damages is in violation of the Due Process Clause and Equal Protection Clause of the Fourteenth Amendment to the United States Constitution and Article 1, Section 7 of the California Constitution.

DAMAGES AND RELIEF REQUESTED

Claimant requested:

1. Consequential damages in excess of \$15,000 or according to proof;
2. Punitive damages of \$100,00.00.
3. Statutory penalties and attorneys fees.

DAMAGES AND RELIEF AWARDED

On July 12, 1990, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed by Claimant on March 28, 1989 and by Respondent on January 17, 1990. The hearing was conducted in Los Angeles, California and lasted two 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. Each and every claim is dismissed.
2. The claim for punitive damages is dismissed.
3. The parties shall each bear their respective costs including attorneys' fees.
4. In accordance with Section 43 of the NASD Code of Arbitration Procedure, the NASD shall retain the \$750.00 filing fee previously deposited by the Claimant. In addition, Respondent is also assessed fees of \$350.00 representing charges for forum fees payable to the NASD.

ARBITRATORS CONCURRING

DATE SERVED: 09/12/90

Sondra Taggart
Sondra Taggart