

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Santrain S. Arora

and

89-02869

Name of Respondents

Merrill Lynch, Pierce Fenner & Smith, Inc.;
Merrill Lynch, Pierce Fenner & Smith, Ltd.; and
Merrill Lynch International Bank, Ltd.

CASE SUMMARY

In a statement of claim filed with the NASD on or about October 17, 1989, Claimant Santrain S. Arora ("Claimant") alleged that he was solicited by Respondents Merrill Lynch, Pierce Fenner & Smith Ltd.; Merrill Lynch International Bank, Ltd.; and Respondent Merrill Lynch Pierce Fenner & Smith, Inc. (collectively as "Respondents") on November 6, 1987 to engage in certain foreign currency forward transactions to hedge existing business commitments. Claimant alleged that he authorized Merrill Lynch to purchase US \$250,000 of Deutsche Marks for forward delivery and sell short Australian dollars of equivalent value. Claimant alleged the position was increased by the same amount on November 10, 1987. Claimant alleged that Merrill Lynch informed him on November 18, 1987 that the market had gone against him but that he could liquidate his position at a cost of \$10,000 Australian dollars. The position was liquidated at a substantially higher cost to Claimant.

In their Answer filed with the NASD on or about February 13, 1990, Respondents generally denied the allegations of misrepresentation, unauthorized transactions, breach of contract and any other allegations of liability set forth in the Statement of Claim and stated that Claimant was informed of and understood the risks and knew he could lose money in these types of transactions. Respondents asserted affirmative defenses including but not limited to estoppel, ratification, assumption of risk and that the claims were time barred by applicable statutes of limitation.

RELIEF REQUESTED

Claimant requested an award in the amount of \$26,724.80. Respondents requested dismissal of the claim and an award of attorney's fees, costs, and expenses.

OTHER ISSUES

On October 24, 1990, at the commencement of the hearing, Claimant's counsel orally amended his claim at the initial hearing to request costs and expenses of traveling to Chicago for the arbitration.

PROCEDURAL MATTERS

On October 24, 1990 and March 5, 1991 in Chicago, Illinois during a hearing lasting a total of four (4) sessions, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed on September 11, 1989 by Claimant Santrain S. Arora on February 9, 1990 by Dennis M. Page on behalf of Respondents Merrill Lynch, Fenner & Smith Inc.; Merrill Lynch, Pierce, Fenner & Smith Ltd.; and Merrill Lynch International Bank Limited.

At the continued hearing on March 5, 1991, Claimant Santrain Arora appeared by telephonic conference call upon consent of all parties and the arbitrators.

AWARD

The arbitration panel, having considered the pleadings, the testimony, and the evidence presented at the hearing, has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondents are jointly and severally liable for and shall pay to Claimant Santrain S. Arora the sum of \$12,000 in full satisfaction of all claims asserted; and
2. Pursuant to Section 43(c) of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall retain the hearing session deposit in the amount of \$300.00 previously deposited with the NASD by the Claimant. Merrill Lynch shall pay to the NASD the sum of \$1,300 as forum fees and shall reimburse Claimant the sum of \$400.

Dated:

Panel Members Concurring

Charles Watkins
Presiding Chair

Sheila Reilly

Mark Duffy
Industry Arbitrator

Date Served: 3/28/91

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Panel Members Concurring

Charles Watkins
Presiding Chair

March 14, 1991

Sheila Reilly
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Mark Duffy
Industry Arbitrator

Date Served: _____

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Dated:

3/11/91

Panel Members Concurring

Charles Watkins
Charles Watkins
Presiding Chair

Sheila Reilly

Mark Duffy
Mark Duffy
Industry Arbitrator

Date Served: _____