

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

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In the Matter of the Arbitration Between	:
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Louis S. and Ilene E. Hyatt	:
Claimant	:
vs.	: Award
	: Case #90-00088
Merrill Lynch, Pierce, Fenner & Smith, Inc.	:
and	:
Emanuel Bobb	:
Respondent	:

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CASE SUMMARY

Claimants Louis S. and Ilene E. Hyatt ("Claimants") alleged that Respondent's Merrill Lynch, Pierce, Fenner & Smith, Inc. and Emanuel Bobb made misrepresentations to the Claimants to induce Claimants to purchase Kemper Government Plus Portfolio (the "Fund"). Claimants alleged that they informed Respondents that their investment criteria was one of complete safety and preservation of principle. Claimants alleged that Respondent Emanuel Bobb ("Bobb") recommended to the Claimants a monthly check for interest earned and was invested in United States Government Securities. Claimants alleged that Bobb represented to the Claimants that their principal investment was safe. Claimants alleged that Respondent did not provide Claimants with a prospectus at the time they invested in the Fund but that it was sent to the Claimants latter. Claimants alleged that Bobb never told the Claimants that they were investing in a mutual bond fund.

Respondents denied each and every allegations asserted by the Claimants. Respondents maintained that the Fund was explained fully to the Claimants and specifically the Claimants were informed that the Fund was comprised of government bonds and that the Fund would fluctuate in value.

RELIEF REQUESTED

Claimants requested damages in the amount of \$23,708.97.

Respondents requested that Claimants' claim be denied in its entirety and the costs assessed against the Claimants.

AWARD

On Wednesday December 19, 1990, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed by the Claimants, on December 27, 1989 and by the Respondent Merrill Lynch Pierce Fenner & Smith, Inc. on March 5, 1990 and by Respondent Emanuel Bobb on January 24, 1990. The initial claim was filed on January 2, 1990. The hearing was held in Washington, D.C. and the hearing consisted of two sessions. A pre-hearing conference was conducted via telephone and consisted of one session so that there was three sessions in total. 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. That Claimants' claim is dismissed in its entirety.
2. The parties shall each bear their respective costs, including attorneys' fees.
3. Pursuant to Section 43 of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall retain the \$400.00 filing fee previously deposited by the Claimant as cost of one session of forum fees.
4. Respondent are jointly and severally assessed forum fees for two hearing sessions in the amount of \$800.00 payable to the NASD, Inc. through its staff counsel in accordance with Section 43 of the Code of Arbitration Procedure.

ARBITRATOR CONCURRING

/s/  
Marvin Elster

/s/  
Lawrence Bauman

/s/  
Bryan P. Fusini

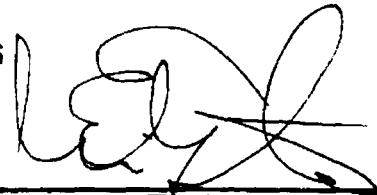
DATED: December 28, 1990

for two hearing sessions

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4. <sup>are jointly and severally</sup> Respondent/~~Claimant~~ is assessed forum fees in the amount of \$ 800.00 payable to the NASD, Inc. through its staff counsel /~~administrator~~ in accordance with Section 43 of the Code of Arbitration Procedure.

ARBITRATORS CONCURRING



Marvin Elster

Lawrence Bauman

Lawrence Bauman

Bryan P. Fusini

Bryan P. Fusini

ARBITRATORS DISSENTING  
(if any)

