

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant(s)

Michael Bartok

90-01772

Name of Respondent(s)

Merrill Lynch, Pierce, Fenner & Smith Inc.

Heard before:

Name

Public/Industry

Jonathan I. Klein
Roger W. Van Deusen
Lester T. Miller

Public Arbitrator
Public Arbitrator
Industry Arbitrator

CASE SUMMARY

In a claim filed by the Claimant Michael Bartok ("Claimant") on June 21, 1990, Claimant alleged that Respondent, Merrill Lynch, Pierce, Fenner & Smith, Inc. ("Respondent") through its agent, Ben Blough ("Blough") misrepresented the risks associated with investing in Public Service of New Hampshire Ten and a Half Percent Bonds ("PSNH"). Claimant alleged that Blough represented that these bonds were a conservative investment and were "backed 100%" by the State of New Hampshire. Claimant alleged that Respondent and its agent failed to disclose that PSNH was a speculative, high risk, junk bond. Claimant alleged PSNH was unsuitable for him and that Respondent failed to properly manage his account in that his port folio was highly concentrated in PSNH. Respondent maintained that Blough explained the risks of investing in PSNH and that Claimant understood the risks and knowingly purchased PSNH and made his own decisions in holding PSNH in his account. Respondent maintained that Claimant from the initial transactions in his account made numerous investment decisions and chose to invest in speculative issues. Respondents maintained that Claimants' investment goal was to purchase high risk investments to make a profit. Respondent maintained that Blough did not misrepresent the nature of PSNH, Respondents maintained that Claimant could have sold PSNH at any time but that Claimant decided to hold the investment.

RELIEF REQUESTED

Claimant requested damages for losses sustained on PSNH 10.5% Bonds in the amount of \$49,358.27.

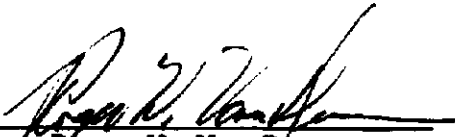
Respondent requested that Claimant's claim be dismissed in its entirety and that Claimant be assessed costs of this action.

AWARD

On April 15, 1991, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed by the Claimant, on June 20, 1990 and by the Respondent on July 5, 1990. The hearing was held in Cleveland, Ohio and consisted of two 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. That the arbitration panel finds in favor of Claimant and against Respondent and that Respondent shall pay to the Claimant the sum of Eighteen Thousand Five Hundred Forty Nine and 55/100 Dollars (\$18,549.55); no interest is assessed on this amount.
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 \$500.00 filing fee and hearing deposit fee previously deposited by the Claimant.
4. Respondent is assessed forum fees in the amount of \$800.00, \$400.00 which is payable to the NASD, Inc. through its staff counsel in accordance with Section 43 of the Code of Arbitration Procedure, and \$400.00 which is to be paid to the Claimant to reimburse him for his original hearing session deposit.

CONCURRING ARBITRATOR


Roger W. Van Deusen

Date of Decision: ^{April} 25, 1991

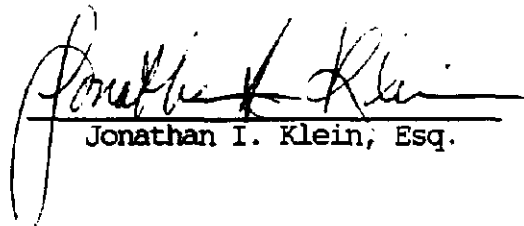
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CONCURRING ARBITRATOR


Jonathan I. Klein, Esq.

April 30th
Date of Decision: May , 1991

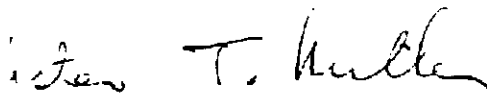
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CONCURRING ARBITRATOR



Lester T. Miller

Date of Decision: ^{April 30th}~~May~~, 1991