

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

Craig H. & Mary F. McConnell

91-00980

Name of Respondents

Merrill Lynch Pierce Fenner & Smith Inc
Kittridge A. Buritsch

REPRESENTATION

For Claimants: Charles P. Piven, Esq.

For Respondent: Jeffrey P. Bloom, Esq. of the law firm of Metzger,
Gordon, Scully & Mortimer

CASE INFORMATION

Statement of Claim filed: March 27, 1991.

Claimants' Submission Agreements signed on: March 25, 1991.

Joint Statement of Answer filed by Respondents, Merrill Lynch, Pierce,
Fenner, & Smith Inc. and Kittridge A. Buritsch on:
June 13, 1991.

Respondent Merrill Lynch, Pierce, Fenner, & Smith Inc.'s Submission Agreement
signed on: June 13, 1991.

Respondent Kittridge A. Buritsch's Submission Agreement signed on:
June 18, 1991

HEARING INFORMATION

Hearing Dates/Sessions: October 24, 1991-2 Sessions
October 25, 1991-1 Session

Hearing Location: Baltimore, Maryland

CASE SUMMARY

Claimants alleged that Respondents represented past or present material facts to Claimants which were false and knew they were false at the time they were misrepresented and knew that Claimants would rely on and be damaged as a result of Respondents' conduct; failed to disclose pertinent information to Claimants of the speculative nature of the bonds at issue; invested Claimants' funds in investments that were unsuitable for them and alleged Respondent Merrill Lynch, Pierce, Fenner, & Smith Inc. failed to properly supervise its employees. Claimants further alleged Respondents' conduct caused damage to their marital relationship and psychological well-being.

Respondents maintained the Claimants were given complete information in order to permit them to evaluate the amount of risks they were taking; the investment was made with the expectation it was a longer term investment; the investment was suitable for the Claimants; the Claimants made the sole determination as to how much to invest; the Respondents did not make any misrepresentations to the Claimants; the Claimants were kept apprised on a regular basis of the value of their securities as they fluctuated in value and Claimants ratified the transactions and failed to mitigate their damages.

RELIEF REQUESTED

Claimants requested an award against the Respondents for damages equal to the difference between their original investment in the 18% Bonds and the value thereof on the date of the award together with interest on the amount of their original \$61,362.35 investment at the rate of 8% per annum from November 1, 1988, the costs of these proceedings, expenses attributable to these proceedings, attorney's fees and all consequential damages and losses suffered by Claimant as a direct and/or proximate result of the conduct of the Respondents as herein alleged in an amount to be determined by the arbitration panel. In addition, Claimants requested an award against the Respondents for punitive damages in an amount to be determined by the arbitration panel. Mrs. McConnell requested an award against the Respondents for costs of these proceedings, expenses attributable to these proceedings, attorney's fees and all consequential damages and losses directly and/or proximately resulting from the conduct of the Respondents complained of herein in an amount to be determined by the arbitration panel. In addition, Mrs. McConnell requested an award for punitive damages in an amount to be determined by the arbitration panel.

Respondents requested dismissal of all claims against them and that the costs of the proceedings be assessed against the Claimants.

AWARD

After considering the pleadings, the testimony and the evidence presented at the hearing the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. The transaction of October 31, 1991 should be reversed and the Respondent Merrill Lynch, Pierce, Fenner & Smith Inc. should return to the Claimant Craig H. McConnell Merrill Lynch, Pierce, Fenner, & Smith Inc. IRA account the total sum of \$61,362.15 interest specifically excluded and the Claimant Craig H. McConnell shall tender to the Respondent Merrill Lynch, Pierce, Fenner, & Smith Inc. all Southland Corp. securities held in his Merrill Lynch, Pierce, Fenner, & Smith Inc. IRA account.
2. The Claimants' claim for punitive damages be and hereby is denied in all respects.
3. The Respondents Merrill Lynch, Pierce, Fenner, & Smith Inc. and Kitridge A. Buritsch be and hereby are liable jointly and severally and shall pay to the Claimants the sum of \$13,500.00 to represent attorney's fees.

FORUM FEES

Pursuant to Section 43c of the Code of Arbitration Procedure, the following Forum Fees are assessed.

3 Sessions x \$500.00 = \$1,500.00 minus hearing session deposit of \$500.00 = net \$1,000.00

The Respondents Merrill Lynch, Pierce, Fenner, & Smith, Inc. and Kitridge A. Buritsch be and hereby are liable jointly and severally and shall pay to the NASD, Inc. the sum of \$1,000.00 to represent forum fees. The NASD, Inc. shall retain the \$150.00 claim filing fee previously deposited by the Claimants.

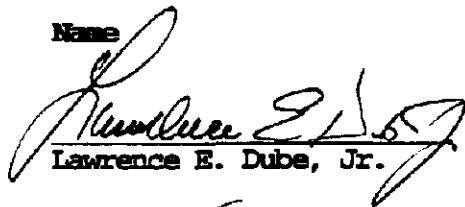
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Fees are payable to the National Association of Securities Dealers, Inc.

ARBITRATORS SIGNATURE

Name

Public/Industry


Lawrence E. Dube, Jr.

Public


Janet Thomas Johnson

Public


Kurt Matthew Schwartz

Industry

Dated by The NASD: _ December 11, 1991