

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

Tony Fama

Lola Fama

Jean Lee

NASD Arbitration  
No. 91-01363

Name of Respondents

Merrill Lynch Pierce, Fenner & Smith, Inc.

William B. Linas

Tedford L. Woodard

REPRESENTATION

For Claimant: Lionel Z. Glancy, Esq.

For Respondent: V. James Mann, Esq. - Merrill Lynch, Pierce, Fenner & Smith

CASE INFORMATION

Statement of Claim filed: April 30, 1991

Claimants' Submission Agreement signed on: July 25, 1991

Joint Statement of Answer filed by Respondents, on August 1, 1991

Respondent, Merrill Lynch's Submission Agreement signed on: July 18, 1991

Respondent, William B. Linas' Submission Agreement signed on: July 9, 1991

Respondent, Tedford L. Woodard's Submission Agreement signed on: July 12, 1991

HEARING INFORMATION

Pre-Hearing Conference: June 4, 1991 - One Session

Hearing Dates/Sessions: June 24, 1991 - Two Sessions

June 25, 1991 - Two Sessions

Hearing Location: Los Angeles, California

CASE SUMMARY

Claimants alleged that they employed, and gave a power of attorney to, an investment advisor to manage their accounts with the Respondent, Merrill, Lynch, Pierce, Fenner & Smith, Inc. (ML). Said advisor commenced trading the Claimant's accounts in an inappropriate manner. Specifically, unsuitable options trading was conducted. It is asserted, that none of the losses in the accounts would have occurred had ML properly supervised and investigated the trading strategies of the investment advisor.

Respondent, ML, alleged that they acted in accordance with a power of attorney given to the investment adviser and also alleged that the Claimants received and signed Standard Option Agreements which disclosed to them the risks inherent in that investment strategy.

#### RELIEF REQUESTED

Claimants requested compensatory damages of approximately \$500,000.00, pre-judgment interest, costs, attorneys' fees and punitive damages of \$2,000,000.00.

Respondent, Merrill Lynch, Pierce, Fenner & Smith, Inc. requested dismissal of the claim in its entirety and costs.

#### OTHER ISSUES CONSIDERED & DECIDED

The parties have agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award may be entered. In either case, the parties have agreed to receive conformed copies of the Award while the original(s) remain on file with the NASD.

1. Claimants voluntarily dismissed any and all claims brought against individual respondents, William B. Linas and Tedford L. Woodard. Said dismissal was with prejudice.
2. The panel permitted the parties to prepare and submit written post hearing briefs.

#### AWARD

After considering the pleadings, the testimony and the evidence presented at the hearing and post hearing submissions, the undersigned arbitrator(s) has/have decided in full and final resolution of the issues submitted for determination as follows:

1. Respondent, Merrill Lynch, Pierce, Fenner & Smith, Inc. is solely liable and shall pay to Claimant, Jean Lee, the sum of Twenty Six Thousand, Three Hundred Sixty Nine Dollars and No Cents (\$26,369.00) for losses sustained in connection with Account No. ML 222-17131 and Twenty Five Thousand, Nine Hundred Sixty Dollars and No Cents (\$25,960.00) for losses sustained in connection with Account No. ML 222-17154. Said sum includes pre-judgment interest.
2. Respondent, Merrill Lynch, Pierce, Fenner & Smith, Inc. is solely liable and shall pay to Claimants, Tony and Lola Fama the sum of Thirty Two Thousand, Seven Hundred Twenty Nine Dollars and No Cents (\$32,729.00) inclusive of pre-judgment interest.
3. The parties shall each bear their respective costs and fees, including attorneys' fees.
4. Claimants' claim for punitive damages is denied.

FORUM FEES

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

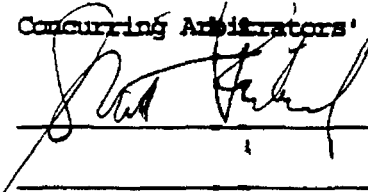
1. Claimants are jointly assessed the sum of \$1,150.00 representing one-half of the fees assessable for one pre-hearing conference at \$300.00 and four hearing sessions at \$1,000.00 each, less the previously deposited \$1,000.00.
2. Respondent, Merrill Lynch, Pierce, Fenner & Smith, Inc. is assessed the sum of \$2,500.00 representing one-half of the fees assessable.

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

ARBITRATORS

Public/Industry  
Public Chairperson  
Public Panelist  
Industry Panelist

Concurring Arbitrators' Signatures

  
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DATE SERVED: 09/08/92

Date of Decision: \_\_\_\_\_