

Arbitration

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

National Association of  
Securities Dealers, Inc.  
One East Broward Boulevard  
Suite 1000  
Ft. Lauderdale, Florida 33301  
(305) 522-7391

In the Matter of the Arbitration Between )

Name of Claimant(s) )

Donald & Aretta Handa )

Name of Respondent(s) )

Merrill Lynch Pierce Fenner & Smith Inc )  
Linda C. Barlow )

Case No. 91-01494

REPRESENTATION

Claimants, Donald and Aretta Handa, ("the Handas"): were pro-se.

Respondents, Merrill Lynch Pierce Fenner & Smith, Inc. ("Merrill") and Linda Barlow ("Barlow"): Elizabeth Armstrong, Esq. of Merrill.

CASE INFORMATION

Statement of Claim filed on: May 13, 1991.

Claimants' Submission Agreement signed on: May 9, 1991. Respondents Statement of Answer filed on July 5, 1991. Respondents Submission Agreements signed by Barlow on June 17, 1991, and by George Schieren on behalf of Merrill on July 3, 1991.

HEARING INFORMATION

On December 16, 1991, in Tampa, Florida, a hearing lasting one session was conducted.

CASE SUMMARY

Claimants alleged that Respondents were liable for misrepresenting that Claimants would not lose any of the principal of their investment in a certain mutual fund and that, at the end of four years, they would receive back their original investment plus interest.

Respondents denied all allegations of wrongdoing and alleged that: Barlow never guaranteed a return of their investment amount, in addition to the interest earned, after four years; Claimants received a prospectus; and, were informed of the risks involved.

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Respondents asserted the affirmative defenses of: failure to state a claim; Claimants were suitable for the investment and the investment was in accordance with Claimants's investment objectives; estoppel; Claimants incurred no out of pocket losses; and losses did not result from any improper activity by Respondents but, rather, by market forces beyond Respondents control.

#### RELIEF REQUESTED

Claimants requested damages in the amount of \$13,819.56 plus punitive damages of \$6,500.00.

Respondents requested dismissal of the claim plus costs and attorney's fees.

#### AWARD

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

1. Respondents, Barlow and Merrill, are found not liable and, therefore, all claims against them are hereby dismissed.
2. Claimants request for punitive damages is denied.
3. Respondents' request for costs and attorney's fees is denied.

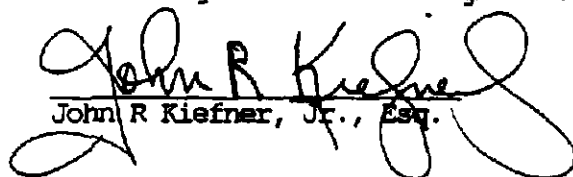
#### OTHER COSTS

The parties shall each bear all other costs and expenses incurred by them in connection with this proceeding.

#### FORUM FEES

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the Arbitrator has assessed forum fees in the amount of \$300.00 (one session x \$300.00). Claimants are hereby assessed \$150.00. Respondent, Merrill, is hereby assessed \$150.00 payable directly to the Claimants. The National Association of Securities Dealers, Inc. shall retain the \$300.00 previously deposited by the Claimants in full satisfaction of such forum fees and shall refund the \$100.00 overpayment to Claimants.

Concurring Arbitrators' Signatures

  
John R. Kiefner, Jr., Esq.

Date of Decision: 12/27/91