

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

---

In the Matter of the Arbitration Between

Name of Claimant

Steven Pearson

vs.

Case #  
91-03030

Name of Respondents

Merrill Lynch Pierce Fenner & Smith Inc  
Robyn L. Armstrong  
Russ Mann

---

REPRESENTATION

For Claimant, David H. Jarvis, Esq. of Alan R. Miller, P.C. Anthony V. Trogan, Esq. of Weisman, Trogan, Young and Schloss.

For Respondents, Merrill Lynch, Pierce, Fenner and Smith, Inc., Robyn L. Armstrong and Russ Mann: Dennis Egan, Esq. of Butzel Long.

CASE INFORMATION

Statement of Claim filed: June 25, 1992.

Claimant's Submission Agreement signed on: September 23, 1991.

Statement of Answer filed by Respondents, Merrill Lynch, Pierce Fenner and Smith, Robyn L. Armstrong and Russ Mann on: August 4, 1992.

Respondent Merrill Lynch, Pierce, Fenner & Smith's Submission Agreement signed on: August 4, 1992.

Respondent, Robyn L. Armstrong's Submission Agreement signed on: July 16, 1992.

Respondent, Russ Mann's Submission Agreement signed on: July 16, 1992.

### HEARING INFORMATION

Pre-Hearing Conference: February 1, 1993 - 1 Session.  
June 3, 1994 - 1 Session

Hearing Dates/Sessions: August 4, 1993 - 2 Sessions  
August 5, 1993 - 1 Session

Hearing Location: American Arbitration Association - Southfield, MI

### CASE SUMMARY

Claimant alleged that he was interested in purchasing a zero coupon C.D. or, a high grade corporate zero coupon bond for his IRA account. Claimant alleged that Respondent, Robyn L. Armstrong-Mueller (Armstrong-Mueller) recommended that he purchase Subordinated Debentures of National Gypsum Co.. Claimant alleged that Armstrong-Mueller assured him that this was a safe investment and in line with his desire for conservative investments. Claimant alleges that this, in fact was a junk bond and was misrepresented to him as a safe investment when, in fact, it was a risky investment.

Claimant alleged that upon the recommendation of Armstrong-Mueller, he purchased several limited partnerships. Claimant alleged that Armstrong-Mueller represented to him that these investments were suitable for his account and that they were conservative in nature. Claimant alleged that Respondents were aware through secondary market, that the value of the limited partnerships was misrepresented on the monthly statements by showing them at the purchase price.

Claimant alleged that in fact, these limited partnerships were risky, illiquid and unsuitable for his account.

Respondents maintained that Claimant did not at any time, advise Armstrong-Mueller that his investment objectives were preservation of capital and conservative growth. Respondents maintained that Claimant was interested in speculative investments. Respondents maintained that Claimant approached Armstrong-Mueller and asked her to find him an investment in foreign currencies; as a result, Claimant purchased Units of Multi currency unit trust.

Respondents maintained that Claimant opened an options account and that the options agreement reflected Claimant's investment objectives as trading and

speculation. Respondents maintained that Claimant was fully apprised of the nature and risks associated with National Gypsum Co.. Respondents asserted that Armstrong-Mueller apprised Claimant of the rating on the subordinated debentures.

Respondents maintained that Claimant did not, at any time, lodge a complaint with respect to limited partnerships. Respondents asserted that Claimant was fully apprised of the nature and risks of the limited partnerships. Respondents maintained that the investments were suitable for the Claimant given his age, financial resources and investment objectives.

#### **RELIEF REQUESTED**

Claimant requested an award of \$21,816.50, interest at 12%, costs, attorney's fees and punitive damages. Claimant also requested rescission of all transactions to make him whole.

Respondents requested that the claim be denied in its entirety and assess the costs of these proceedings be assessed against the Claimant.

#### **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 originals remain on file with the NASD.

#### **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. Respondent, Merrill Lynch, Pierce, Fenner & Inc. is hereby liable and shall pay to the Claimant the amount of \$3,500.00 (**THREE THOUSAND FIVE HUNDRED DOLLARS AND ZERO CENTS**) in connection with the claim concerning the National Gypsum bonds. This amount is exclusive of interest.

2. The Claims in connection to the limited partnerships are hereby denied in

their entirety.

3. All Claims against Robyn L. Armstrong-Mueller and Russ Mann are hereby denied in their entirety.
4. Each party shall bear their respective costs of this action, including attorney's fees.
5. All other claims and counterclaims, if any are hereby denied.

**FORUM FEES**

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

\$100.00 Non-refundable filing fee.  
\$1,200.00 Hearing Session Fees (3 Sessions X \$400.00).  
\$300.00 Pre-hearing Conference (February 1, 1993).  
\$300.00 Pre-hearing Conference (June 3, 1993).

Total forum fees in the amount of \$1,900.00 are hereby assessed against Respondent, Merrill Lynch, Pierce, Fenner & Smith, Inc.

1. Respondent, Merrill Lynch, Pierce, Fenner & Smith is hereby directed to re-imburse to the Claimant the amount of \$500.00 Claimant previously paid to the NASD, Inc..
2. Respondent, Merrill Lynch, pierce, Fenner & Smith, Inc. is hereby directed to pay the balance of \$1,400.00 to the NASD, Inc.

Page 5  
Case #91-03029

Concurring Arbitrators' Signatures  
Names

s/s  
Norton Stern - Industry Arbitrator

of Decision: Sept 15, 1993