

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant(s)

Corinne S. Badanes

Case No. 92-00134

Name of Respondent(s)

Merrill Lynch, Pierce, Fenner & Smith Inc.
Thomas D. Stackert

REPRESENTATION

For Claimant, Corinne S. Badanes ("Badanes"): Albert W. Badanes.

For Respondents, Merrill Lynch, Pierce, Fenner & Smith, Inc. ("Merrill") and Thomas Stackert ("Stackert"): Robert Goldberg, Esq. of Merrill.

CASE INFORMATION

Statement of Claim filed: January 14, 1992. Claimant's Submission Agreement signed: January 6, 1992.

Respondents' Statement of Answer filed: March 10, 1992. Respondents' Submission Agreements signed: March 4, 1992 by Stackert, and on March 10, 1992 by George Schieren on behalf of Merrill.

HEARING INFORMATION

On February 25, 1993, in Fort Lauderdale, Florida, a hearing lasting three (3) sessions was conducted.

CASE SUMMARY

Claimant alleged that Respondents were liable for recommending the purchase of a limited partnership which was not suitable for Claimant.

Respondents denied all allegations of wrongdoing and alleged that: Claimant was advised of the risks involved : Claimant was aware of the illiquidity of the investment: Claimant received a prospectus: and, Claimant failed to object in a timely manner.

Respondents alleged the affirmative defenses of: failure to state a claim: estoppel: ratification: failure to exercise due diligence: and, Claimant was negligent in the supervision of her financial affairs.

RELIEF REQUESTED

Claimant requested rescission of the purchase and the return of the \$50,000.00. invested.

Respondents requested dismissal of the claim, plus 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 originals remain on file with the NASD.

AWARD

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

1. Respondents are found not liable and, therefore, all claims against them are hereby dismissed.
2. Respondents' request for costs is denied.

OTHER COSTS

The parties shall each bear all other costs and expenses incurred by them in connection with this proceeding including attorney's fees.

FORUM FEES

1. Pursuant to Section 43(c) of the Code of Arbitration Procedure, the Panel has assessed forum fees in the amount of \$1,200.00 (three sessions x \$400.00 per session).
2. Respondents, Merrill and Stackert, are hereby assessed \$1,200.00, jointly and severally, payable to the National Association of Securities Dealers, Inc.
3. The NASD shall refund to Claimant the \$400.00 hearing session deposit previously paid by Claimant.
4. The Panel hereby waives the \$400.00 postponement fee, and therefore NASD shall refund to Claimant the \$400.00 postponement fee previously paid by Claimant.
5. The NASD shall retain the non-refundable filing fee of \$120.00 paid by the Claimant.

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

Concurring Arbitrators' Signatures

/s/
Edward J. Marko, Esq.

Public

/s/
Harry J. Polansky

Public

/s/
James R. South

Industry

Date of Decision: April 5, 1993