

PUBLIC

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Harold Resteiner, as trustee

92-01080

Name of Respondent

Merrill Lynch Pierce Fenner & Smith Inc

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on March 26, 1992, Claimant Harold Resteiner, as Trustee, who appeared Pro Se, alleged that Respondent Merrill Lynch Pierce Fenner & Smith, Inc. through it's registered representative, Robert Craig, made recommendations to purchase Bond Corporation stock, and that he was led to believe this was a safe, well rated, solid investment, but in reality it was not. The Claimant contended that Respondent Merrill Lynch, Pierce, Fenner & Smith, Inc. should be held liable for making recommendations that caused a direct loss to him.

Respondent Merrill Lynch, Pierce, Fenner & Smith, Inc., through it's in-house counsel, Christopher D. Cavuoti, Esq., maintained that all risks concerning the purchase of this investment were fully explained to the Claimant, and he received and reviewed Research information prior to authorizing the purchase. The Respondent further maintained that this investment was suitable for the Claimant and in accordance with his stated investment objectives.

RELIEF REQUESTED

Claimant Harold Resteiner, as Trustee requested \$6,478.11 in actual damages.

Respondent Merrill Lynch, Pierce, Fenner & Smith, Inc. requested that the claims of the Claimant be dismissed.

AWARD

Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Marc E. Thomas, Esq., was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on April 10, 1992 and by the Respondent on July 20, 1992.

And, the Arbitrator, having considered the proof of the Parties, has decided and determined in full and final resolution of the issues submitted for determination as follows:

1. The claims of the Claimant Harold Resteiner, as Trustee against Respondent Merrill Lynch, Pierce, Fenner & Smith, Inc. are dismissed in their entirety.
2. The parties shall bear their respective costs.
3. The \$150.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant shall be retained by the NASD, Inc.

AFFIRMATION

I, **MARC E. THOMAS, ESQ.**, do hereby affirm upon my oath as arbitrator that I am the individual described herein and who executed this instrument, which is my oath and award.



Signature of Arbitrator

DATE OF DECISION: March 2, 1993