

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between

Edmund Scott Brown

Claimant

vs.

Merrill Lynch, Pierce, Fenner & Smith, Inc.

Respondent

CASE #92-01771
AWARD

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on May 27, 1992, Claimant Edmund Scott Brown, who appeared Pro Se, alleged that Respondent Merrill Lynch, Pierce, Fenner & Smith, Inc. through its broker, Jeff Miller, misled him into purchasing 1,000 shares of Prime Motor Inns, Inc. stock, using his account as collateral, and that he lost money in that investment, causing the Respondent to sell 20 shares of Euro Fund Mutual Fund Account without his knowledge. The Claimant further alleged that although Mr. Miller promised he would reimburse him the 20 shares he has not done so; therefore, the Respondent should be held liable for his losses.

Respondent Merrill Lynch, Pierce, Fenner & Smith, Inc., through its in-house counsel, Christopher D. Cavuoti, Esq., maintained that the 20 Euro Fund shares were done with the Claimant's prior knowledge and authorization, and that although Jeff Miller recommended the sale to cover a \$150.00 debit balance, the Claimant decided to sell the shares. The Respondent further maintained that it acted in a manner consistent with its obligations and responsibilities toward the Claimant.

RELIEF REQUESTED

Claimant Edmund Scott Brown requested reimbursement of 20 shares of Euro Fund Plus or the cash equivalent of \$207.00 plus \$8,459.00 in actual damages and punitive damages in the amount of \$1,200.00

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

AWARD

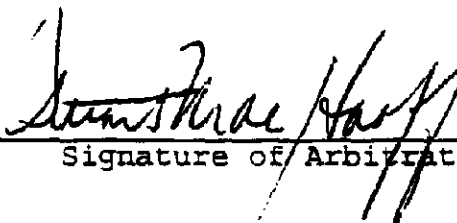
Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Stuart M. de Haaff, was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on June 9, 1992 and by the Respondent on July 10, 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. Respondent Merrill Lynch, Pierce, Fenner & Smith, Inc. is liable and shall pay to Claimant Edmund Scott Brown \$8,600.00 in actual damages.
2. The Claimant's request for punitive damages is denied.
3. The parties shall bear their respective costs.
4. 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. Respondent Merrill Lynch, Pierce, Fenner & Smith, Inc. is liable and shall pay \$150.00 to the Claimant as reimbursement.

AFFIRMATION

I, STUART M. de HAAFF, 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: November 17, 1992