

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

Jacques-Andre Istel

vs.

NASD #92-2230

Name of Respondents

Merrill Lynch Pierce Fenner & Smith, Inc.

REPRESENTATION

For Claimant: Jacques Andre Istel, Felicity, CA

For Respondents: Michael Van Dyke, Esq., Gray, Cary, Ames & Frye, San Diego, CA

CASE INFORMATION

Statement of Claim filed: July 7, 1992

Claimant's Submission Agreement signed: June 29, 1992

Statement of Answer filed by Respondent on: October 15, 1992

Respondents' Submission Agreements signed on: October 14, 1992

HEARING INFORMATION

Prehearing Conference(s) Date(s)/(Sessions): None.

Hearing Date/(Sessions): November 18, 1993 (two)

Hearing Location: San Diego, CA

CASE SUMMARY

Claimant alleged: Unauthorized trade and lack of suitability in the purchase of Columbia Savings. Claimant had requested a safe zero-coupon security for his Individual Retirement Account in order to have guaranteed income in 1995 and to lock in favorable interest rates. He requested a government zero-coupon but Respondent guaranteed that Columbia Savings was 100% safe.

Respondent denied each and every allegation in the Statement of Claim and alleged: Claimant has maintained an account with Respondent since 1982. In December of 1983 Claimant authorized the purchase of 88,000 Columbia Savings & Loan Association zero coupon certificates. The certificates were fully insured by the Federal Savings and Loan Insurance Corporation. Claimant understood that there was a risk that any savings and loan could default on its obligations. Claimant also received a Certificate of Deposit Fact Sheet which detailed the investment.

RELIEF REQUESTED

Claimant requested:

1. That respondent take back the improper September 26, 1991 distribution of \$54,722 and give Claimant a guarantee to pay the contractual \$88,000 on September 29, 1995;
2. Punitive damages of \$1,000,000.

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.
1. All claims are dismissed;
 2. The claim for punitive damages is dismissed;
 3. The parties shall each bear their respective attorney's fees;
 4. The parties shall each bear their respective costs.

OTHER COSTS

None.

FORUM FEES

Pursuant to Section 43c of the Code of Arbitration Procedure, the following forum fees are assessed: The National Association of Securities Dealers, Inc. shall retain the \$1,000 hearing session deposit previously deposited by the claimant. Forum fees assessed against:

Respondent for \$1,000

calculated as follows: two hearing sessions at \$1,000/hearing session, equals \$2,000, minus \$1,000 already paid by the claimant as a hearing deposit.

Fees are payable to the National Association of Securities Dealers,

ARBITRATION PANEL

Name

William R. Newsome, Esq.

Jeanne C. Stilwell

Wayne J. Hickey

Public/Industry

Public

Securities

Public

Concurring Arbitrators' Signature

William R. Newsome, Esq.

Jeanne C. Stilwell

Wayne J. Hickey

Date of Decision:

Served 12/10/93