

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Art Knoeller

93-01886

Name of Respondents

Merrill Lynch Pierce Fenner & Smith Inc
John Albert Hinken

REPRESENTATION

For Claimant, Art Knoeller ("Knoeller"): Harry M. Hobbs, Esq., Tampa, Florida.

For Respondents, Merrill Lynch, Pierce Fenner & Smith, Inc. ("MLPFS") and John Albert Hinken ("Hinken"): Burton W. Wiand, Esq. of Fowler, White, Gillen, Boggs, Villareal and Banker, P.A., Clearwater, Florida.

CASE INFORMATION

Statement of Claim filed: 5/11/93.

Claimant's Submission Agreement signed on: 5/4/93

A joint Statement of Answer filed by Respondents, MLPFS and Hinken on: 9/21/93.

HEARING INFORMATION

Hearing Date/Sessions: 6/1/94-two (2) sessions.

Hearing Location: Tampa, Florida.

CASE SUMMARY

Claimant alleged that in January, 1989 Respondent, Hinken, contacted him and that through misrepresentations convinced him to invest \$10,000.00 in the Athena Fund II, L.P. which was not in keeping with Claimant's investment objectives of liquidity and dependable yield.

Respondents denied all allegations of wrongdoing contained in the Statement of Claim and maintained that Claimant is a knowledgeable investor with a number of years of investment experience. Respondents further maintained that Claimant was provided with a copy of the prospectus of the investment at issue and that Hinken discussed with Claimant the nature, risks and benefits of the investment and that the investment was entirely suitable for Claimant.

RELIEF REQUESTED

Claimant requested damages in the amount of \$10,000.00 plus treble damages, attorneys' fees and costs.

Respondents requested dismissal of the claim.

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. Respondents, MLPFS and Hinken are found not liable and, therefore, all claims against them are hereby dismissed.
2. Claimant's requests for attorneys' fees and costs are hereby denied.

OTHER COSTS

The parties shall each bear their own costs and expenses incurred in connection with this proceeding including attorneys' fees.

FORUM FEES

Pursuant to Section 43c of the Code of Arbitration Procedure, the panel has assessed forum fees in the amount of \$800.00 (two hearing sessions X \$400.00).

1. Claimant is hereby assessed forum fees in the amount of \$800.00 for which the NASD shall retain the \$400.00 previously deposited in partial satisfaction thereof leaving a balance due to the NASD of \$400.00.
2. The NASD shall retain the \$120.00 non-refundable filing fee previously paid by the Claimant.

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

ARBITRATION PANEL

Concurring Arbitrators' Signatures

Name	Public/Industry
 /s/ _____ Nalton Morrow Bennett, Esq.	 Public/Chairman
 /s/ _____ James F. Bell	 Public/Panelist
 /s/ _____ Gene G. Stern	 Industry/Panelist

Date of Decision: June 30, 1994