

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Thelma Kammer

93-03153

Name of Respondents

Merrill Lynch, Pierce, Fenner & Smith, Inc.
Geraldine Beaudin

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on August 12, 1993, Claimant Thelma Kammer, through her representative, Robert M. Roth of RM Roth & Associates, Thousand Oaks, CA, alleged that Respondent Geraldine Beaudin of the Respondent firm Merrill Lynch, Pierce, Fenner & Smith, Inc. made unsuitable recommendations, which did not meet her investment objectives, and further that Respondent Beaudin recommended a high risk, speculative and illiquid investment known as AMC/JMB Hawaii, Inc. certificates of Land Appreciation Notes. The Claimant also alleged that she was unaware of the high risk nature of the investment and its lack of liquidity. Claimant Kammer contended that the Respondents assured her her investments were as liquid as government investments and that the principal would be safe. The Claimant further contended that she has suffered damages due to the wrongdoing of the Respondents, and therefore they should be held liable for the losses she has incurred.

Respondents Merrill Lynch, Pierce, Fenner & Smith, Inc. and Geraldine Beaudin, through their in-house counsel, Christopher Cavuoti, Esq., maintained that the Claimant was provided with a prospectus to review prior to making the investment, and further that Respondent Beaudin discussed the details of the investment with the Claimant several times prior to her purchasing the units. The Respondents further maintained that it was also explained to the Claimant that the investment was not liquid, and that it was intended as a long term investment. Respondents Merrill Lynch, Pierce, Fenner & Smith, Inc. and Geraldine Beaudin contended that they had reasonable grounds to believe the investment in question was suitable since the Claimant indicated at that time her net worth was \$120,000.00. The Respondents further contended that they committed no wrongdoing and that therefore, they should not be held liable in this matter.

RELIEF REQUESTED

Claimant Thelma Kammer requested \$9,000.00 in actual damages, plus pre-award and post-award interest, and costs including consulting fees and filing fees.

Respondents Merrill Lynch, Pierce, Fenner & Smith, Inc. and Geraldine Beaudin requested that the claims of the Claimant be dismissed.

AWARD

Pursuant to Section 13 of the NASD, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Pamela Covella, PC, was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on May 7, 1993, by the Respondent Geraldine Beaudin on October 6, 1993, and by the Respondent Merrill Lynch, Pierce, Fenner & Smith, Inc. on September 29, 1993.


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. Respondents Merrill Lynch, Pierce, Fenner & Smith, Inc. and Geraldine Beaudin are jointly and severally liable and shall pay to Claimant Thelma Kammer \$6,880.64 in actual damages, plus interest at the rate of 10% per annum from the purchase date of the investment in question to the date of payment of the award.
2. Claimant Thelma Kammer, upon receipt of payment, shall relinquish said securities to Respondent Merrill Lynch, Pierce, Fenner & Smith, Inc. and in so doing shall transfer all right, title and interest to said securities to Respondent Merrill Lynch, Pierce, Fenner & Smith, Inc.
3. The parties shall bear their respective costs.
4. The \$150.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. of the Claimant Thelma Kammer shall be retained by the NASD, Inc.

Page Three
Award 93-03153

AFFIRMATION

I, PAMELA COVELLA, PC, 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: January 30, 1995