

12/16

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

Robert J. and Betty D. Durocher

93-03758

Name of Respondent

Merrill Lynch, Pierce, Fenner & Smith, Inc.

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on September 22, 1993, Claimants, Robert J. and Betty D. Durocher, who appeared Pro Se, alleged that Respondent, Merrill Lynch, Pierce, Fenner & Smith, Inc., gave misleading representation of the expected return on their investment and principal in the Arvida/J.M.B. Limited Partnership. Claimants further alleged that their initial investment was to be returned in a five year period as represented by Respondent. Claimants contended that it appeared they were not going to see any additional returns, and that they have suffered damages due to the misinformation of the Respondent, and therefore the Respondent should be held liable in this matter.

Respondent, Merrill Lynch, Pierce, Fenner & Smith, Inc., through its in-house counsel, Christopher D. Cavouti, Esq., maintained that Claimants opened an account with Respondent in 1978 and continue to maintain an account to date, where ten units of Arvida/J.M.B. Partners L.P. 87 were purchased on September 28, 1987. Respondent further maintained that Claimants received a prospectus for the investment prior to completion of the transaction or settlement date for the trade. Respondents contended that conditions in the real estate market at the time of the Arvida/JMB development, as well as the track record and reputation of the company, supported Respondent's belief that this was a prudent investment. Respondent maintained that no guarantees of future performance of this investment were made to Claimants at any time, and Claimants received significant and consistent distributions from their investment for the first three years of its existence amounting to approximately \$3,200.00.

RELIEF REQUESTED

Claimants, Robert J. and Betty D. Durocher, requested \$6,900.00 in actual damages.

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

AWARD

Pursuant to Section 13 of the NASD, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Robert J. Scafuri, Esq., was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimants, Robert J. and Betty D. Durocher, on September 20, 1993, and by the Respondent, Merrill Lynch, Pierce, Fenner & Smith, Inc., on December 13, 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. The claims of the Claimants, Robert J. and Betty D. Durocher, 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 Claimants, Robert J. and Betty D. Durocher, shall be retained by the NASD, Inc.

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1995

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Affirmation

STATE OF MI

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COUNTY OF Oakland

I, Robert J. Scafuri, do hereby affirm upon my oath
as arbitrator that I am the individual described in and who executed this instrument,
which is my oath and award.

Robert J. Scafuri
Signature of Arbitrator

DATE OF DECISION: December 11, 1995