

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

Martin Stern and Marilyn Stern

93-03884

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 27, 1993, Claimants Martin and Marilyn Stern, who appeared Pro Se, alleged that Respondent sold Claimants \$5,000.00 worth of shares in Arvida/JMB Limited Partnership. Claimants further alleged that they were assured by Respondent's agent that they had made a good investment and that at no time did Respondent advise them that the partnership was in financial trouble, and at no time did Respondent advise that the shares be sold. The Claimants contended that if Respondent knew of problems, Claimants should have been so advised, and that, therefore they should be compensated for the losses they have incurred.

Respondent Merrill Lynch, Pierce, Fenner & Smith, Inc., by and through its in-house counsel, Christopher D. Cavuoti, Esq., maintained that all of the material elements of the investment were explained to Claimants, including the investment objectives of the partnership, the possible risks and illiquidity. The Respondent further maintained that the Claimants met the financial suitability requirements to invest in the limited partnership, and that the Claimants made a properly informed decision, and that Claimants' allegations that Respondent omitted important material information is untrue. The Respondent further maintained that any risk was explained in a prospectus which was provided to the Claimants. The Respondent contended that Claimants' allegation that Respondent failed to keep them apprised of developments and problems involving the partnership is without merit, since Claimants received quarterly and annual reports from the general partner of the partnership.

RELIEF REQUESTED

Claimants Martin and Marilyn Stern requested an award for actual damages in the amount of \$5,000.00, plus interest.

Respondent Merrill Lynch, Pierce, Fenner & Smith, Inc. requested that damages be denied in all respects and that costs be assessed against Claimant.

AWARD

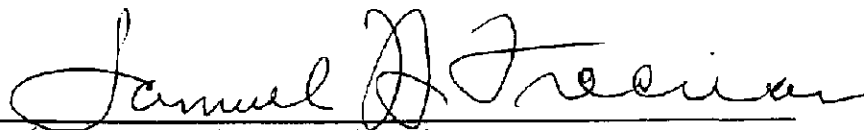
Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Samuel H. Freeman, Esq., was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimants on September 23, 1993 and by the Respondent on December 27, 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 Martin and Marilyn Stern against Respondent Merrill Lynch, Pierce, Fenner & Smith, Inc. are dismissed in their entirety.
2. The parties shall bear their respective costs.
3. The \$125.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimants shall be retained by the NASD, Inc.

AFFIRMATION

I, SAMUEL H. FREEMAN, ESQ., 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.

A handwritten signature in cursive script, reading "Samuel H. Freeman", written over a horizontal line.

Signature of Arbitrator

DATE OF DECISION: May 9, 1994

STATE OF: *New York*

SS:

COUNTY OF: *New York*

On this *29* day of *April* 19*94* before me personally appeared Samuel H. Freeman, Esq. to me known and known before me to be the individual described in and who executed the foregoing instrument and he duly acknowledged to me that he executed the same.

Madeline L. Pontzer
Madeline L. Pontzer
02PA 4780449
County of New York
Expirer 11/30/95