

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

G. Glover, D. Glover & Gail Vince TTEES

vs.

Award #
93-04665

Name of Respondents

Merrill Lynch Pierce Fenner & Smith Inc
John Boyne

REPRESENTATION

For Claimants, George H. Glover, David Golver, et al. ("Claimants"), Marie F. Mercier, Esq. from the law firm of Kotin, Crabtree & Strong, located in Boston, Massachusetts.

For Respondents, Merrill Lynch, Pierce, Fenner & Smith ("MLPF&S") and John Boyne ("Boyne") (collectively "Respondents"), Samuel Turvey, Esq., in-house counsel at MLPF&S, located in New York, New York.

CASE INFORMATION

Statement of Claim was filed on November 8, 1993.

Claimants' Submission Agreements were signed on November 3, 1993 and January 18, 1994.

Claimants' Reply to Counter Claim was filed on April 14, 1994.

Statement of Answer and Counter Claim was filed by Respondents, MLPF&S and Boyne, on MLPF&S's Submission Agreement was signed on June 9, 1995.

Boyne's Submission Agreement was signed on 7, 1995.

HEARING INFORMATION

Hearing Dates/Sessions:	March 10, 1995	-	2 sessions
	May 23, 1995	-	2 sessions

Hearing Location: American Arbitration Association, located at 133 Federal Street in Boston, Massachusetts.

CASE SUMMARY

Claimants as Trustees commenced this arbitration claim to recover damages from Respondents for breach of contract, negligence and misrepresentation arising from Respondents' mismanagement of Claimants' accounts. Claimants allege that as trustees on behalf of the Residual Trust and the Marital Trust, they transferred the Trust accounts to MLPF&S and informed Boyne that the primary purpose of the Trust accounts was to support their mother and that if permitted, they would consider small amounts of the income from the Trust accounts for growth securities in isolated cases.

Claimants also allege that Respondents initially handled the accounts in a manner consistent with their investment objectives but two years later Boyce recommended that they purchase General Development Company ("GDC") bonds which were unsuitable. Claimants further allege that Boyne indicated that the bonds were an excellent investment and failed to disclose that the bonds had a very poor rating and a very high risk factor and that there were at least two class actions pending as well as ongoing grand jury investigation against GDC.

Claimants contend that Boyne continued to tell them to hold the bonds even when GDC filed for reorganization under the Bankruptcy Code. Claimants also contend that the New York Stock Exchange later suspended trading on GDC common stock and bond issues.

Respondents deny all charges of wrongdoing and liability and all claims for damages and assert seven affirmative defenses. Respondents maintain that Boyne recommended that Claimants purchased fifteen bonds or less but that Claimants placed additional orders and Claimant George Glover purchased additional bonds even subsequent to the bankruptcy filing.

Respondents interpose a Counter Claim against the Trustees of the Trusts on the grounds that if the investments were unsuitable, Claimants were legally responsible for choosing and monitoring the investments.

Claimants deny liability for the losses sustained by the Trust accounts and assert four affirmative defenses.

RELIEF REQUESTED

Claimants request damages in excess of \$45,000, interest, attorney's fees and costs and treble damages under New York General Business Law Section 349. Claimants also request that the Counter Claim be dismissed.

Respondents request that the Statement of Claim be dismissed in its entirety, that costs and expenses be assessed against Claimants, that Respondents' Counter Claim be granted in full and

that Respondents be awarded such other and further relief as the Arbitration Panel deems just and proper.

OTHER ISSUES CONSIDERED & DECIDED

The parties have agreed that the Award in this matter may be executed in counterpart copies and agreed to receive conformed copies of the Award while the original remains on file with the NASD.

AWARD

After considering the pleadings, the testimony and the evidence presented at the hearing, the undersigned arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

1. Claimants' request for damages is denied.
2. Claimants request attorney's fees and costs is denied.
3. Respondents' request for damages in their Cross Claim is denied.

FORUM FEES

Pursuant to Section 43(c) of the *Code of Arbitration Procedure*, the following Forum Fees are assessed and shall be borne equally by the parties.

Non-refundable Claim Filing Fee - \$200.00

Non-refundable Counter Claim Filing Fee - \$500.00

Hearing session Fees - \$3,000.00 (4 sessions @ \$750.00 per session)

Total Fees = \$3,700.00

1. Claimants are assessed \$1,850.00. Claimants previously deposited \$950.00 and owe a balance of \$900.00.
2. Respondents are assessed \$1,850.00.

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

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ARBITRATION PANEL

Mark J. Levinson, Esq.	-	Public Chairperson
Ronald L. Cheney, Esq.	-	Public Panelist
Susan F. Stone	-	Industry Panelist

Concurring Arbitrator's Signature



Mark J. Levinson, Esq.

Date of Decision: June 29, 1995


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Mark J. Levinson, Esq.	-	Public Chairperson
Ronald L. Cheney, Esq.	-	Public Panelist
Susan F. Stone	-	Industry Panelist

Concurring Arbitrator's Signature


Ronald L. Cheney, Esq.

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Concurring Arbitrator's Signature


Susan F. Stone

Date of Decision: June 29, 1995