

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Robert L. Kraft

94-01670

Name of Respondent

Merrill Lynch, Pierce Fenner & Smith, Inc.

REPRESENTATION

For Claimant Robert L. Kraft ("Claimant"): pro se

For Respondent Merrill Lynch, Pierce, Fenner & Smith, Inc. ("Respondent") Daniel T. Fitch,
Esq. of Stadley Ronon Stevens & Young

CASE INFORMATION

Statement of Claim filed: May 4, 1994

Claimant's Submission Agreement signed on: April 25, 1994

Statement of Answer filed on: September 27, 1994

Respondent's Submission Agreement signed on: September 17, 1994

HEARING INFORMATION

Hearing Date/Session: September 15, 1995 - one session

Hearing Location: Double Tree Hotel, Philadelphia, PA

CASE SUMMARY

Claimant alleged, among other things, that he had owned Rollins Truck Leasing stocks for five years as a long term investment and with no intention of selling prior to April 21, 1993. On April 21, 1993, Respondents employee called Claimant and told him that Rollins rating by Respondent had dropped from a one to a three rating, and that this was a significant change. Claimant alleged that Respondent's agent told Claimant to sell his Rollins stock so Claimant did. Claimant alleged that shortly after he sold his Rollins stock it began to raise in value and that Respondent then restored Rollins to its previous rating. Claimant alleged that the fluctuations in the Rollins stock price was not caused by the stock or economic conditions but changes in the ratings by Respondent. Claimant alleged that Respondents changes were based on error, negligence or a desire to generate commissions, fees and profits by forcing sales and purchases based on changing value. Claimant alleged that he should be compensated for the lost opportunity for greater taxes, brokers fees as well as costs of this arbitration.

Respondents denied all allegations of wrongdoing of wrongdoing asserted by Claimant and specifically maintained that Claimant's account was properly handled at all times. Respondent maintained that Claimant's account was handled in a suitable manner consistent with Claimant's investment goals and objectives. Respondents maintained that it offers investment opinions as a service and does not guarantee its opinion. Respondent maintained that from time to time it might modify its opinion due to events and factors in the market. Respondent maintained that Claimant maintained control at all times of whether to buy or sell. Respondent maintained that the rating on the Rollins stock had fluctuated on other occasions. Respondent denied liability for lost appreciation. Respondent denied liability for taxes inasmuch as they would have had to be paid in any event. Respondent asserted the following affirmative defenses: failure to state a claim; Claimant authorized and approved the transaction; ratification; estoppel; statute of limitations; failure to mitigate; Respondent acted in good faith; Respondent acted properly and Claimant failed to complain; losses due to market conditions and not Respondent; Respondent handled Claimant's suitably in light of Claimant's objectives.

RELIEF REQUESTED

Claimants requested damages in the amount of \$14,070.

Respondents requested that Claimants' claim be denied and that they be awarded costs and expenses.

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 arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

1. That Claimants' claim is denied in its entirety.
2. That the parties shall bear their respective costs including attorneys' fees except as specifically provided for below.

FORUM FEES

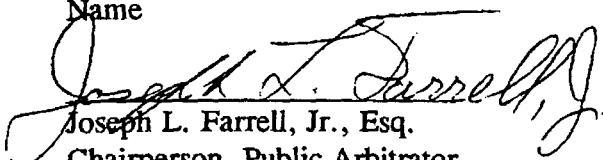
Pursuant to Section 43(c) of the Code of Arbitration Procedure, the following Forum Fees are assessed.

1 sessions X \$400 = \$400 minus hearing session deposit of \$400 = net \$0 due.

The Panel determined that the hearing session deposited by Claimant shall be retained by the NASD, Inc.

Concurring Arbitrators' Signatures

Name


Joseph L. Farrell, Jr., Esq.
Chairperson, Public Arbitrator

Cynthia Turner, Esq.
Public Arbitrator

Gordon E. Wright
Industry Arbitrator

Date Award Served by NASD: October 2, 1995

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Chairperson, Public Arbitrator

Cynthia Turner, Esq.
Public Arbitrator



Gordon E. Wright
Industry Arbitrator

Date Award Served by NASD: October 2, 1995