

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

Ernest B. Miller and Naomi S. Miller

95-01497

Name of Respondent

NationsSecurities

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on March 24, 1995, Claimants Ernest B. Miller and Naomi S. Miller, who appeared Pro Se, alleged that Respondent NationsSecurities, failed to keep them informed on the status of their investment and failed to warn them when the value declined. Claimants further alleged that Respondent recommended an investment in the Alliance North American Government Income Trust ("Alliance") and pursuant to Respondent's recommendation, they invested \$36,000.00 in Alliance from November, 1993 until January, 1994, at the weighted average price of \$10.36 per share. Claimants contended that the Alliance prospectus listed several safety features of Alliance. Claimants further contended that they sold their Alliance shares on January 10, 1995, at \$6.09 per share, a decrease of 41% from their average purchase price. Claimants alleged that their loss was caused by Respondent's failure to advise them of the price decline. As a result of the above, Claimants alleged that they have suffered a loss for which Respondent should be held liable.

Respondent NationsSecurities, through its representative, Cory Hohnbaum, Esq., of Charlotte, NC., maintained that Claimants were fully advised of the risks associated with an investment in Alliance and knowingly assumed those risks. Respondent further maintained that Claimants received account statements on a regular basis which revealed a steady decline in the share price of Alliance during 1994. Respondent contended that Claimants also received a Semi-Annual Report from Alliance dated May 31, 1994, which indicated that for the six months ended May 31, 1994, the Funds Class B shares had a total return of negative 6.28%. As a result of the above, Respondent maintained that it should not be held liable.

RELIEF REQUESTED

Claimants Ernest B. Miller and Naomi S. Miller, requested \$10,000.00 in actual damages.

Respondent NationsSecurities, 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, Leon Henderson Jr., was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimants Ernest B. Miller and Naomi S. Miller, on March 17, 1995, and by the Respondent NationsSecurities, on June 1, 1995.

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 Ernest B. Miller and Naomi S. Miller, against the Respondent NationsSecurities, 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 Ernest B. Miller and Naomi S. Miller, shall be retained by the NASD, Inc.

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AFFIRMATION

STATE OF

North Carolina

SS:

COUNTY OF

Wake

I, *Leon Henderson*, 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.

Leon Henderson
Signature of Arbitrator

DATE OF DECISION:

December 21, 1995