

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Quentin J. Benedetti, Trustee for
By The House of Quinto Trust

95-01804

Name of Respondents

Merrill Lynch, Pierce, Fenner & Smith, Inc.
John F. Watkins

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on April 12, 1995, Claimant Quentin J. Benedetti, Trustee for By The House of Quinto Trust ("Claimant"), who appeared Pro Se, alleged that Respondents Merrill Lynch, Pierce, Fenner & Smith, Inc. ("MLPFS"), and John F. Watkins ("Watkins"), purchased unsuitable investments for the Claimant. Claimant further alleged that the investments were risky but were presented as safe by Watkins. Claimant contended that the Respondents failed to diversify his portfolio by placing over two-thirds of his portfolio in ML World Income Fund and ML Corporate Bond Fund High Income. Claimant further contended that the account statements from MLPFS are misleading and show a current yield not the lower true yield. Claimant alleged that as a result of the above, he has suffered a loss for which the Respondents should be held liable.

Respondents Merrill Lynch, Pierce, Fenner & Smith, Inc., and John F. Watkins, through their representative and in-house counsel, Walter Baldowski, Esq., maintained that Claimant first had an account with Watkins while he was with PaineWebber and transferred it to MLPFS when Watkins changed employment. Respondents further maintained that Watkins used reasonable care when making investment recommendations and always had the approval of the Claimant before investing. Respondents contended that the ML World Income Fund and ML Corporate Bond High Income Fund investments were appropriate for the Claimant because they were part of a larger portfolio. Respondents further contended that Claimant accepted the risks associated with investing and as a result of the above, they should not be held liable.

RELIEF REQUESTED

Claimant Quentin J. Benedetti, Trustee for By The House of Quinto Trust, requested \$6,979.72 in actual damages and \$2,850.00 in punitive damages, plus costs.

Respondents Merrill Lynch, Pierce, Fenner & Smith, Inc., and John F. Watkins, requested that the claims of the Claimant be dismissed.

AWARD

Pursuant to Section 13 of the NASD, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Fred T. Kallet, was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant Quentin J. Benedetti, Trustee, for By The House of Quinto Trust, on April 10, 1995, and by the Respondent Merrill Lynch, Pierce, Fenner & Smith, Inc., on August 18, 1995, and by John F. Watkins, on August 2, 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 Claimant Quentin J. Benedetti, Trustee for By The House of Quinto Trust, against Respondents Merrill Lynch, Pierce, Fenner & Smith, Inc., and John F. Watkins, 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 Claimant Quentin J. Benedetti, Trustee for By The House of Quinto Trust, shall be retained by the NASD, Inc.

AFFIRMATION

I, **FRED T. KALLET**, 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.


Fred T. Kallet

DATE OF DECISION: October 23, 1995