

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration
Between

RICHARD J. GALUSKA,

Claimant,

v.

MERRILL LYNCH, PIERCE, FENNER &
SMITH, INC.,

Respondent.

AWARD

NASD NO. 87-198

On February 23, 1988, March 2, 1988, April 27, 1988, October 10, 1988 and January 18, 1989 in Chicago, Illinois, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed on January 26, 1987 by Claimant Richard J. Galuska ("Galuska") and on February 26, 1987 by Sebastian L. Pandolfo on behalf of Respondent Merrill Lynch, Pierce, Fenner & Smith, Inc. ("Merrill Lynch").

The arbitration panel, having considered the pleadings, the testimony, the evidence presented during the hearing, the various legal memoranda submitted on behalf of the parties during and after the hearing and the respective motions made on behalf of the parties during and after the hearing, has decided in full and final resolution of the issues submitted for determination as follows:

1. The arbitrators received and considered Galuska's post-hearing motion with attached memorandum of authorities. Galuska's motion requested that the panel reconsider its ruling on January 18, 1989 which dismissed certain portions of Galuska's Statement of Claim prior to the hearing's conclusion, but after the completion of Galuska's presentation. The panel denies Galuska's motion. Accordingly, the panel's dismissal of Counts I and III of Galuska's Statement of Claim on January 18, 1989 is affirmed;

2. Galuska's motion for sanctions against Merrill Lynch, received and taken under advisement by the panel, is hereby denied;

3. As to Count II of Galuska's Statement of Claim, Merrill Lynch is liable for and shall pay to Galuska, the sum of Twelve Thousand Five Hundred Four Dollars and no cents (\$12,504.00). This sum is arrived at as follows:

	\$105,000	putative sale proceeds at 8/3/84 open
minus	\$ 1,200	estimate of commission

	\$103,800	
minus	\$ 91,296	(i.e., \$45,648 [initial cover proceeds] x 2)

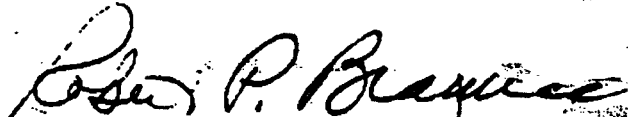
	\$12,504	


4. Simple interest at the rate of 6% per annum is awarded on the above stated sum from and inclusive of August 6, 1984 through and inclusive of May 15, 1989.

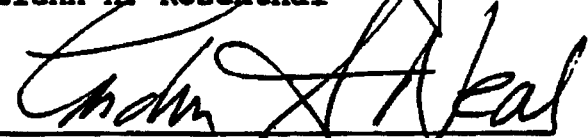
5. Neither party is awarded attorney's fees or costs and accordingly the parties shall each bear their respective costs and expenses including any attorney's fees incurred during the course of this proceeding; and

6. Pursuant to Section 43(b) of the Code of Arbitration Procedure, the National Association of Securities Dealers, shall retain as forum fees the \$750.00 filing fee previously deposited with the NASD by Galuska. Galuska is also assessed and shall pay to the NASD as additional forum fees the sum of \$1,500.00 and Merrill Lynch is assessed and shall pay to the NASD as additional forum fees the sum of \$1,500.00.

BY THE PANEL


Robert P. Bramnik


Glenn H. Rosenthal


Gordon A. Neal