

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between

Matthew Lewandowski
Anna Lewandowski

Claimants

vs.

Merrill Lynch Pierce Fenner & Smith, Inc.
John F. Braca
Peter Massari
Sheldon Bausk

Respondents

CASE #88-02011
AWARD

CASE SUMMARY

Claimants Matthew and Anna Lewandowski alleged Respondents Merrill Lynch Pierce Fenner & Smith, Inc., John F. Braca, Peter Massari and Sheldon Bausk entered them into investments in speculative stock investments which were unsuitable for them. Claimants further alleged Respondents mismanaged their accounts through the inappropriate use of margin, options and excessive trading. Respondents maintained Claimants' losses are the result of their own investment decisions which were in direct contradiction of advice given by Respondents and are the result of the market crash of October 1987. Respondents further maintained that they did not churn Claimants account.

RELIEF REQUESTED

Claimants requested damages of \$150,117.00. Respondents requested dismissal of claim and that costs be assessed against Claimants.

AWARD

On September 14, October 5 and November 6, 1989 the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed by Claimants Matthew and Anna Lewandowski on October 18, 1988, and by Respondent Merrill Lynch Pierce Fenner & Smith, Inc. on September 8, 1988, and by Respondent John F. Braca on August 17, 1989, and by Respondent Peter Massari on June 25, 1989, and by Respondent Sheldon Bausk on June 22, 1989. The hearing was held at the offices of the National Association of Securities Dealers, Inc. located in New York City, NY and consisted of six (6) hearing sessions. The arbitration panel, having considered the pleadings, the testimony, and the evidence presented at the hearing, has determined in full and final resolution of the issues submitted for determination as follows:

1. Claimants are awarded \$39,444.01 against Respondent Merrill Lynch Pierce Fenner & Smith, Inc., with no interest.
2. Claims against Respondent John F. Braca be and hereby are dismissed in their entirety.
3. Claims against Respondent Peter Massari be and hereby are dismissed in their entirety.
4. Claims against Respondent Sheldon Bausk be and hereby are dismissed in their entirety.
5. The parties shall each bear their respective costs including attorneys' fees.
6. Pursuant to Section 43 of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall refund the \$750.00 filing fee previously deposited by the Claimants. Respondent Merrill Lynch Pierce Fenner & Smith, Inc. be and hereby is liable and shall pay to the National Association of Securities Dealers, Inc. the sum of Three Thousand Dollars and No Cents (\$3,000.00), and Respondent John F. Braca be and hereby is liable and shall pay to the National Association of Securities Dealers, Inc. the sum of One Thousand Five Hundred Dollars and No Cents (\$1,500.00), as costs of the six (6) hearing sessions conducted in this manner.

CONCURRING ARBITRATORS

/s/ _____
Ted M. Rosen

/s/ _____
Daniel Gold

/s/ _____
Thomas E. Duggan

Dated: November 21, 1989