

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

James A. Agostini

Claimant(s)

vs.

Paul J. Montessoro, Dean Dierks,
Merrill Lynch, Pierce, Fenner & Smith,
Inc. and Ron Patterson

Respondent(s)

NOTICE OF
ARBITRATION
AWARD

88-03965

CASE SUMMARY

Claimant(s) James A. Agostini alleged that Respondent(s) Paul J. Montessoro, Dean Dierks, Merrill Lynch, Pierce, Fenner & Smith, Inc. and Ron Patterson were aware that Claimant was investing borrowed money and assured Claimant that the risks involved with the investments recommended by Respondents were minimal. Respondent Merrill Lynch, Pierce, Fenner & Smith, Inc. denied any and all allegations of wrongdoing and maintain that Claimant's losses stemmed from the general market decline in October of 1987. Respondent Dean Dierks entered a motion requesting dismissal as a party to the proceeding. Respondents Paul Montessoro and Ron Patterson did not respond.

RELIEF REQUESTED

Claimant(s) James A. Agostini requested damages of Five Thousand Dollars and No Cents (\$5,000.00). Respondent(s) requested dismissal of claim and costs.

AWARD

Pursuant to Section 13 of the NASD, Inc. Code of Arbitration Procedure ("Simplified Arbitration") a single arbitrator

was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant(s) on December 20, 1988 and by Respondent Dean Dierks on December 18, 1988, Respondent Merrill Lynch, Pierce, Fenner & Smith, Inc. on December 19, 1988, and not by the Respondents Paul Montessoro and Ron Patterson as required by Section 12(a) of the NASD, Inc. Code of Arbitration Procedure, respectively;

And, that the Arbitrator, having considered the proofs of the Parties, including any additional documentary submissions of the Claimant(s) and the Respondent(s) has decided and determined in full and final resolution of the issue submitted for determination as follows:

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That the claim of the Claimant is hereby dismissed in all respects.

The parties shall each bear their respective costs including attorney's fees.

The \$200.00 filing fee previously deposited with the NASD, Inc. by the Claimant(s) shall be refunded to the Claimant by the Respondent Merrill Lynch, Pierce, Fenner & Smith, Inc.

August 1, 1990