

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

August E. and Sharon LaScola

Claimant

vs.

AWARD
#89-00740

Respondents

Merrill Lynch, Pierce, Fenner & Smith
Arthur Zweig
Charles Murdough

CASE SUMMARY

Claimants alleged that Respondents falsely misrepresented to the Claimants a Prime Plan Variable life insurance policy that was unsuitable for the Claimants and did not conform to their investment objectives of low-risk. Respondents jointly maintained that Claimants approved, accepted and ratified all of the acts complained of in the claim, and Claimant's losses were the result of the October 1987 stock market crash that was unexpected.

RELIEF REQUESTED

Claimants requested compensatory damages of \$20,000, punitive damages of \$100,000, treble damages of \$60,000 plus attorneys fees and costs. Respondents requested that the claims of the Claimants be dismissed and that Respondents be awarded their attorneys' fees, costs and expenses.

AWARD

On May 1, 1990 in Buffalo, New York, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed by the Claimants on February 27, 1989, by Respondent Merrill Lynch, Pierce, Fenner & Smith, Inc. on July 14, 1989, by Respondent Arthur Zweig on June 14, 1989, and by Respondent Charles Murdough on June 19,

1989. The initial Statement of Claim was filed on March 10, 1989. 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) Respondents Merrill Lynch, Pierce Fenner & Smith, Inc., Arthur Zweig and Charles Murdough are jointly and severally liable and shall pay to the Claimants the sum of Three Thousand Five Hundred Dollars and No Cents (\$3,500.00) plus interest at the current legal rate from May 1, 1990 through the date of payment of this award.
- (2) The parties shall each bear their respective costs, including attorneys' fees.
- (3) Pursuant to Section 43 of the Code of Arbitration Procedure the NASD, Inc. shall retain \$200.00 of the \$400.00 filing fee previously deposited by the Claimants as costs of the two hearing sessions conducted in this matter.

CONCURRING ARBITRATORS

Richard Lehner

Robert B. Gleichenhaus
Robert Gleichenhaus

Kirstin M. Jahn

Dated this 16th day of August, 1990

STATE OF NEW YORK)
COUNTY OF ERIE) SS:
CITY OF BUFFALO)

On this 20th day of August, 1990, before me the subscriber personally appeared ROBERT B. GLEICHENHAUS, to me known and known to me to be the person described in the within, and he duly acknowledged to me that he executed same.

Janet M. Urbanczyk
JANET M. URBANCZYK
NOTARY PUBLIC, State of New York
Qualified in Erie County
My Commission Expires 1/22/96

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