



N.A.S.D. AWARD

Arbitration

NATIONAL ASSOCIATION OF SECURITIES DEALERS

National Association of
Securities Dealers, Inc.
NASD Financial Center
33 Whitehall Street
New York, N.Y. 10004
FAX (212) 858-4389

In the Matter of the Arbitration Between

Name of Claimant(s)

CONSOLIDATED CASES

Frank Scaramuzza
Barbara Capozzi

90-02668

90-02668

Name of Respondent(s)

Merrill Lynch Pierce Fenner & Smith Inc
Bruce Ciallella

REPRESENTATION

For Claimant: Mark E. Squires, Esq. of Abrahams, Lowenstein, Bushman & Kauffman, Philadelphia, PA.

For Respondents: Todd A. Zuckerbrod, Esq. of Merrill Lynch Pierce Fenner & Smith, Inc.

CASE INFORMATION

Statement of Claim filed: September 25, 1990 (both cases).

Submission Agreements of both Claimants signed on: June 12, 1990.

Submission Agreements for both cases of Respondent, Merrill Lynch Pierce Fenner & Smith Inc., signed on: March 13, 1991 by John R. Cummings on behalf of the firm.

Submission Agreements for both cases of Respondent, Bruce Ciallella, signed on: March 5, 1991.

HEARING INFORMATION

Pre-Hearing Conference: July 11, 1991-One (1) Session.

July 12, 1991-One (1) Session.

Hearing Date/Sessions: November 12, 1991-Two (2) Sessions.

Hearing Location: Philadelphia, PA.

BOARD-890-02665/890-02668

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CASE SUMMARY

Claimants alleged that Respondent, Bruce Ciallella an employee of Merrill Lynch Pierce Fenner & Smith, Inc. was instructed and authorized by them to purchase for their accounts only high quality, low risk bonds. Instead, Claimants stated, he purchased some lower-rated, lower quality "junk bonds", which were unsuitable for Claimants who were about to be married.

Respondents alleged that Bruce Ciallella acted as instructed and as authorized, and that the securities purchased and overall portfolios were consistent with the Claimants' investment objectives, instructions and financial circumstances.

RELIEF REQUESTED

Claimants requested total combined damages on both accounts of approximately \$40,000.00.

Respondents requested that the Claims be denied in their entirety and no damages be awarded to Claimants.

BOARD

After considering the pleadings, the testimony and the evidence presented at the hearing, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. All Claims of the Claimants, Frank Scaramuzza and Barbara Capozzi, shall be and are hereby denied;
2. The Parties shall bear their own costs including attorneys' fees;
3. Pursuant to Section 43 (c) of the Code of Arbitration Procedure the NASD, Inc. shall retain the \$220.00 non-refundable filing fee previously deposited by the Claimants and the following forum fees are assessed:

FORUM FEES

2 hearing sessions X \$400.00 = \$800.00

2 pre-hearing sessions x \$300.00 = \$600.00

total amount assessable = \$1,400.00

Forum fees assessed against:

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- 1- Claimants, in the amount of \$1,400.00, however, Claimants may use their \$800.00 combined hearing session deposit to offset part of this fee, thereby the amount due and owing equals \$600.00;
- 2- Respondents shall pay no forum fees.

Fees are payable to the National Association of Securities Dealers, Inc.

The parties have agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award be entered. In either case, the parties have agreed to receive conformed copies of the Award while the originals remain on file with the NASD, Inc.

ARBITRATION PANEL

Concurring Arbitrators' Signatures

Name	Public/Industry
/s/	
<u>Marc Durant, Esq.</u>	<u>Public/Chairman</u>
/s/	
----- Blaine S. Greenfield	----- Public/Panelist
/s/	
----- Frank T. Salera	----- Industry/Panelist

DATED BY THE NASD, INC. December 11, 1991