

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Name of Claimant

Connie J. LaRosa

91-01370

Name of Respondents

Merrill Lynch, Pierce, Fenner & Smith Inc  
Bruce Ciallella

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REPRESENTATION

For Claimant: Frederick Klepp, Esq. of Frederick Klepp Law Offices.

For Respondents: Christopher Cavuoti, Esq. of Merrill Lynch, Pierce, Fenner & Smith, Inc.

CASE INFORMATION

Statement of Claim filed on: April 29, 1991.

Claimant's Submission Agreement signed on: April 11, 1991.

Claimant's Clarification of Claim filed on: November 18, 1991.

Joint Statement of Answer filed by Respondents, Merrill Lynch, Pierce, Fenner & Smith, Inc. and Bruce Ciallella on: September 27, 1991.

Respondent Merrill Lynch, Pierce, Fenner & Smith Inc.'s Submission Agreement signed on: September 27, 1991.

Respondent Bruce Ciallella's Submission Agreement signed on: September 17, 1991.

HEARING INFORMATION

Pre-Hearing Conference(s): April 9, 1992, one session  
April 24, 1992, one session

Hearing Date(s)/Sessions: July 14, 1992, two sessions

Hearing Location: NASD offices located in Philadelphia, PA.

CASE SUMMARY

Claimant alleged that on October 27, 1984 Respondent Merrill Lynch, Pierce, Fenner & Smith, Inc. ("Merrill Lynch") through its agent Bruce Ciallella ("Ciallella") opened a margin account and charged margin interest, using a form that bore the forged signature of Claimant Connie LaRosa. Claimant further alleged that stocks were purchased without authorization and on margin and then sold without authorization. Claimant further alleged that Respondent Merrill Lynch failed to properly and adequately supervise its agent Respondent Ciallella in dealing with Claimant.

Respondents Merrill Lynch and Ciallella maintained that Claimant opened an account with Respondent Merrill Lynch and signed a margin agreement. Respondents further maintained all purchase and sale transactions were discussed with and authorized by Claimant. Respondent asserted the following affirmative defenses: estoppel, assumption of risk, statute of limitations and laches.

RELIEF REQUESTED

Claimant requested the sum of \$60,000 in compensatory damages.

Respondent requested Claimant's claim for damages be denied in all respects and costs of the proceedings be assessed against Claimant.

OTHER ISSUES CONSIDERED & DECIDED

The parties have agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award may 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.

AWARD

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. The claims by Claimant be and hereby are dismissed in all respects.
2. The parties shall bear their respective costs including attorneys' fees.

FORUM FEES

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the following Forum Fees are assessed:

2 sessions X \$500 plus 2 sessions of pre-hearing conferences X  
\$300 = \$1000 + \$500 = \$1600 minus hearing session deposit of  
\$500 = net \$900 due.

The NASD shall retain the \$500 hearing session deposit and \$150 non-refundable filing fee previously deposited by Claimant.

Respondents be and hereby are liable jointly and severally and shall pay to Claimant the sum of \$650 to represent claim filing fee and forum fees.

Respondents be and hereby are liable jointly and severally and shall pay to the NASD the sum of \$900 to represent forum fees.

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

Concurring Arbitrator's Signature:

Name

  
Arnold Linsky

Public/Industry

Public Arbitrator

Date of Decision: August 11, 1992

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Concurring Arbitrator's Signature:

Name

  
Richard B. Laden

Public/Industry

Public Arbitrator

Date of Decision: August 11, 1992

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Concurring Arbitrator's Signature:

Name

Public/Industry

  
Frank T. Salera

Industry Arbitrator

Date of Decision: August 11, 1992