

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

Edward & Carmella Giangreco
Alan A. Giangreco
Marilyn Giangreco (Sanders)

91-02582

Name of Respondents

Advest, Inc.
Casimer (Casey) Jaszewski

REPRESENTATION

For Claimants: Donald G. McGrath, Esq. of Falk & Siemer.

For Respondent, Advest, Inc.: Paul K. Stecker, Esq. of Phillips Lytle Hitchcock Blaine & Huber.

For Respondent, Casimer (Casey) Jaszewski: Gerald P. Gorman, Esq. a sole practitioner.

CASE INFORMATION

Statement of Claim filed: August 19, 1991.

Claimants, Edward and Carmela Giangreco's Submission Agreement signed on: September 5, 1991.

Claimant, Marilyn Giangreco (Sanders)'s Submission Agreement signed on: September 6, 1991.

Claimant, Alan A. Giangreco's Submission Agreement signed on September 9, 1991.

Statement of Answer filed by Respondent, Advest, Inc. on: February 6, 1992.

Respondent, Advest Inc.'s Submission Agreement signed on: December 19, 1991.

Statement of Answer filed by Respondent, Casimer Jaszewski, on: January 24, 1992.

Respondent, Casimer Jaszewski did not submit an executed Submission Agreement.

HEARING INFORMATION

Hearing Dates/Sessions: November 10, 1992 - 2 Sessions.
November 11, 1992 - 2 Sessions.

Hearing Location: Hyatt Regency - Buffalo, New York.

CASE SUMMARY

Claimants allege that the Respondents directed and effected excessive trades in their accounts and churned said accounts for the primary purpose of generating commissions. Claimants allege that the Respondents directed and effected unsuitable trades in their accounts, made recommendations and effected trades without adequate basis therefore. Claimants allege that the Respondents misrepresented or omitted to state material facts. Claimants allege that the Respondents recommended and employed margin to increase the size and volume of trades. Claimants allege that the Respondents failed to recommend suitable investments for their accounts. Claimants allege that Respondent, Advest, Inc. ("Advest") failed to adequately supervise their account representative to prevent the activities in the Claimants' accounts.

Respondent, Advest, maintains that Claimant, Edward Giangreco ("E. Giangreco") was a sophisticated investor who directed the accounts of his wife, Claimant, Carmella Giangreco, his daughter, Claimant Marilyn Giangreco (Saunders) and his son, Claimant, Alan A. Giangreco. Advest maintains that E. Giangreco was aware of the risks involved in each of his investments. Advest maintains that the Claimants are disappointed with the results of their investments but deny that they have any liability. Advest maintains that E. Giangreco had a long standing relationship with Respondent, Casimer Jaszewski ("Jaszewski") and that the use of margin was authorized approximately ten years ago. Advest denies that the use of margin was unsuitable for the Claimants' accounts.

Advest maintains that Claimants received trade confirmations, monthly and annual account statements and kept in constant contact with Jaszewski with regard to the activity in their accounts. Advest maintains that E. Giangreco made all the investment decisions for the accounts and often rejected Jaszewski's advice. Advest denies the claim of churning because E. Giangreco directed all the activity in the account.

Respondent, Jaszewski, denied that he directed and effected excessive trades in Claimants' accounts for the purpose of generating commissions. Jaszewski denies that he directed and effected unsuitable trades in the accounts. Jaszewski denies that he made recommendations and effected trades without adequate basis therefore. Jaszewski denies that he misrepresented or omitted to state material facts. Jaszewski denies that he recommended and employed margin to increase the size and volume of the trades. Jaszewski denies that he failed to recommend suitable investments for the Claimants.

RELIEF REQUESTED

Claimants, Edward and Carmella Giangreco, requested damages in the amount of \$804,315.94; interest from August 1, 1991; punitive damages; costs, expenses and disbursements, including attorney's fees.

Claimant, Marilyn Giangreco, requested damages in the amount of \$89,640.13; interest from August 1, 1991; punitive damages; costs, expenses and disbursements, including attorney's fees.

Claimant, Alan A. Giangreco, requested damages in the amount of \$53,280.71; interest from August 1, 1991; punitive damages; costs, expenses and disbursements, including attorney's fees.

Respondent, Advest, Inc. requested that the award be dismissed in its entirety and that costs, fees, expenses, legal fees and travel fees be assessed against the Claimants.

Respondent, Jaszewski, stated that the Claimants are not entitled to recovery of any sort based on the fact that he complied with the appropriate rules and regulations.

OTHER ISSUES CONSIDERED & DECIDED

Pursuant to the by-laws of the NASD, Casimer Jaszewski was required to submit to this arbitration notwithstanding his failure to submit an executed submission agreement. Therefore, Jaszewski is bound by this panel's rulings and determinations.

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 and post hearing submissions, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

- 1) All claims are hereby dismissed in their entirety.
- 2) Each party shall bear their respective costs of this action, including attorney's fees.
- 3) All other claims and counterclaims, if any, are hereby dismissed in their entirety.

FORUM FEES

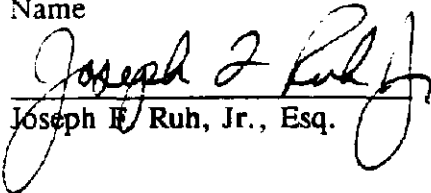
Pursuant to Section 43c of the Code of Arbitration Procedure, the following Forum Fees are assessed.

\$500.00	Non-refundable filing fee
\$3,000.00	Hearing session fees (4 sessions x \$750.00)

Total forum fees in the amount of \$3,500.00 are hereby assessed 50% to the Claimants and 50% to the Respondents.

- 1) Claimants are hereby assessed the amount of \$1,750.00. Claimants are entitled to offset this amount with the \$1,250.00 previously deposited with the NASD, Inc. Therefore, Claimants shall pay to the NASD, Inc. the sum of \$500.00 (FIVE HUNDRED DOLLARS).
- 2) Respondents are hereby jointly and severally assessed the amount of \$1,750.00 (ONE THOUSAND SEVEN HUNDRED FIFTY DOLLARS AND NO CENTS) and shall pay that amount to the NASD, Inc.

Concurring Arbitrator's Signature
Name


Joseph F. Ruh, Jr., Esq.

Public Chairperson

Date of Decision: March 4, 1993

STATE OF New York ss.:

COUNTY OF Monroe

On this 16th day of February 1993, before me personally appeared Joseph F. Ruh, Jr., Esq. to me known and known before me to be the individual described in and who executed the foregoing instrument and he duly acknowledged to me that he executed the same.

Holly L. Hemen

HOLLY L. HEMCHEN
Notary Public in the State of New York
MONROE COUNTY
Commission Expires Feb. 28, 1994

FORUM FEES

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

\$500.00	Non-refundable filing fee
\$3,000.00	Hearing session fees (4 sessions x \$750.00)

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Concurring Arbitrator's Signature
Name


Fred C. Cohn

Industry Arbitrator

Date of Decision: March 4, 1993

STATE OF New York ss.:

COUNTY OF Erie

On this 3rd day of March 1993, before me personally appeared Fred C. Cohn to me known and known before me to be the individual described in and who executed the foregoing instrument and he duly acknowledged to me that he executed the same.

Maria Campese

MARIA A. CAMPESE
Notary Public, State of New York
No. 52-4965360
Qualified in Suffolk County
Commission Expires April 18, 1994

FORUM FEES

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

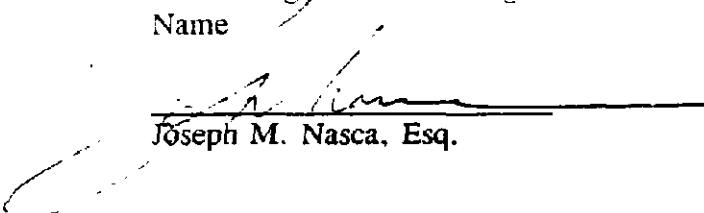
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- 2) Respondents are hereby jointly and severally assessed the amount of \$1,750.00 (ONE THOUSAND SEVEN HUNDRED FIFTY DOLLARS AND NO CENTS) and shall pay that amount to the NASD, Inc.

Concurring Arbitrator's Signature
Name

Public Arbitrator


Joseph M. Nasca, Esq.

Date of Decision: March 4, 1993

STATE OF New York ss.:

COUNTY OF Essex

On this 15th day of February 1978 before me personally appeared Joseph M. Nasca, Esq. to me known and known before me to be the individual described in and who executed the foregoing instrument and he duly acknowledged to me that he executed the same.

Marlene F. Male

MARLENE F. MALE
Notary Public, State of New York
Qualified in Essex County
My Commission Expires March 2, 1983