

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

Bruce & Colleen Landy

94-02002

Name of Respondents

Merrill Lynch Pierce Fenner & Smith Inc

REPRESENTATION

For Claimants, Bruce and Colleen Landy ("Landy"): Pro Se.

For Respondent, Merrill Lynch Pierce Fenner & Smith, Inc. ("MLPFS"): Tracey L. Gerber, Esq. of Gunster Yoakley, Valdes-Fauli & Stewart, West Palm Beach, Florida.

CASE INFORMATION

Statement of Claim filed: May 23, 1994. Claimants' Submission Agreement signed: May 20, 1994.

Statement of Answer filed by Respondent: August 26, 1994. Respondent's Submission Agreement signed: August 24, 1994 by Christopher D. Cavuoti on behalf of MLPFS.

HEARING INFORMATION

On June 1, 1995, a hearing lasting 2 sessions was conducted in Fort Lauderdale, Florida.

CASE SUMMARY

Claimants alleged that they were inexperienced investors; that they advised MLPFS, through their financial advisor Rosalie Schlaen (Schlaen"), of their investment objectives for their \$40,000.00 to be used for a home purchase which were: an investment "as safe as a bank", with ready access, and with a better return than a bank book rate; that Respondent, through Schlaen,

recommended and sold to Claimants Alliance Capital, a corporate bond fund; that the fund did not meet their investment objectives; and that the fund lost money each month for 3 months at which time Claimants directed Respondent to sell the fund to cut their losses.

Respondent denied all allegations of wrongdoing and alleged that the investment decisions was made by Claimants after full disclosure of the risks and alternatives; that a prospectus was provided prior to the decision; that no representation of safety was made; and that the investment was suitable. Respondent alleged the affirmative defenses of: acting in a commercially reasonable manner; failure to state a claim; assumption of risk; and, suitability.

RELIEF REQUESTED

Claimants requested damages in the amount of \$5,824.60.

Respondent requested dismissal.

OTHER ISSUES CONSIDERED & DECIDED

1. Respondent's Motion to Dismiss was withdrawn at the beginning of the hearing.
2. Claimants' Ore Tenus Motion to Bar Defenses was withdrawn after Claimants were reminded that Respondent had obtained extension to file its Answer.

AWARD

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

Respondent, MLPFS is found not liable and, therefore, all claims against it are hereby dismissed.

OTHER COSTS

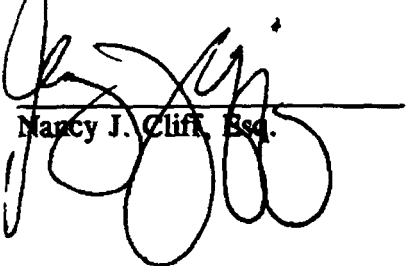
None.

FORUM FEES

1. Pursuant to Section 43(c) of the Code of Arbitration Procedure, the Arbitrator has assessed forum fees in the amount of \$400.00 (2 sessions x \$200.00).
2. Claimants are hereby assessed \$200.00 for which the NASD shall retain the \$200.00 previously deposited in full satisfaction thereof.
3. Respondent, MLPFS is hereby assessed \$200.00 payable to the National Association of Securities Dealers, Inc.
4. The NASD shall retain the non-refundable filing fee of \$75.00 paid by the Claimants.

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

Arbitrator's Signature



Nancy J. Cliff, Esq.

Public

Date of Decision: June 1, 1995