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NASD REGULATION, INC. AWARD

OFFICE OF DISPUTE RESOLUTION

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In the Matter of the Arbitration Between

Name of Claimants

Robert D. and Anne D. Lynch

96-04936

Name of Respondents

Financial Investment Analysts, Inc.  
John S. Coffey

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REPRESENTATION

For Claimants Robert D. and Anne D. Lynch ("Claimants") appeared Arnold Y. Steinberg, Esq., of Investors' Rights, Inc. located in Fort Lauderdale, Florida.

For Respondents Financial Investment Analysts, Inc. ("FIA") and John S. Coffey ("Coffey") (collectively "Respondents") appeared Richard A. Ferris, a sole practitioner located in Pittsburgh, Pennsylvania.

CASE INFORMATION

Statement of Claim filed on: October 31, 1996

Claimants' Submission Agreement signed on: December 12, 1996

Joint Statement of Answer filed by Respondents on: March 10, 1997

Respondent FIA's Submission Agreement signed on: March 10, 1997

Respondent Coffey's Submission Agreement signed on: March 10, 1997

HEARING INFORMATION

Hearing Date/Sessions:

September 15, 1997

- Two Sessions

The hearings were conducted at the Westin William Penn Hotel located in Pittsburgh, Pennsylvania.

CASE SUMMARY

Claimants stated that they had no prior investment experience, had no knowledge of direct investments and had never read a prospectus, therefore, they were relying completely on Respondents to provide appropriate investment advice to achieve their stated investment objective. Claimants stated that their investment objective was the preservation of invested funds to ensure their financial security. Claimants alleged that Respondents made unsuitable investments, were negligent in the handling of their accounts, violated securities rules and regulations and that FIA was negligent in its supervision of Respondent Coffey.

Claimants alleged that at the opening of their accounts they disclosed to Respondents their investment objectives and the fact that they had no investment experience. Claimants also alleged that at this time Respondents represented to them that they were financial experts, that the compliance department would monitor the account and the investments purchased to make sure that they matched Claimants stated objectives, and that Respondent FIA would adequately supervise Respondent Coffey and monitor the investments purchased for the account to ensure that they matched Claimants stated objectives. Claimants further alleged that despite these assurances Respondent Coffey proceeded to make unsuitable investments and that Respondent FIA did not adequately supervise Respondent Coffey or the activity and investments in their account.

Respondents denied all allegations contained in the Statement of Claim. Respondents maintained that any claim with regard to the DiVall investments is barred under Section 10304 of the Code of Arbitration Procedure. Respondents maintained that the investments made matched Claimants investment objectives, financial worth, and initial investment. Respondents maintained that the investments purchased for Claimants accounts are performing as promised. Respondents further maintained that all facts about the investments were disclosed to Claimants.

### **RELIEF REQUESTED**

Claimants requested damages in the amount \$46,000.00, plus interest and punitive damages.

Respondents requested that the Statement of Claim be dismissed in its entirety and that they be awarded attorneys' fees.

### **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 original(s) remain on file with the NASD.

### **AWARD**

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

- 1) The panel unanimously sustains Respondents' Motion to bar all claims with regard to the DiVall investment pursuant to Rule 10304 of the Code of Arbitration Procedure;
- 2) The panel by majority vote enters its award against Claimants Robert D. and Anne D. Lynch on their claims against Respondents Financial Investment Analysts, Inc. and John S. Coffey, relating to CSA Income Fund IV, LP;
- 3) All claims for punitive damages and attorneys' fees are denied; and,
- 4) The parties are to bear their respective costs.

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**DISSENT**

Arbitrator Peter Glasser enters his dissent as to the CSA Income Fund IV, LP only, and would enter an award of \$5,000.00 to Claimants on their part of their claim.

**FORUM FEES**

Pursuant to Rule 10332 of the NASD Regulation, Inc. Code of Arbitration Procedure, the arbitrators have determined that the NASD will retain the \$120.00 non-refundable filing fee deposited by Claimant and have assessed the following forum fees:

Total Forum Fees:      \$800.00      (2 Sessions x \$400.00)

- 1) Claimants are jointly and severally assessed the sum of \$400.00 representing one-half of the total forum fees assessed. Claimants previously deposited \$400.00 with the NASD, therefore, no payment is required of Claimants.
- 2) Respondent Financial Investment Analysts, Inc. and John S. Coffey are jointly and severally assessed the sum \$400.00 representing one-half of the total forum fees assessed. Respondent Financial Investment Analysts, Inc. and John S. Coffey are jointly and severally liable and shall pay NASD Regulation the sum of \$400.00.

**Fees are payable to NASD Regulation, Inc..**

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**ARBITRATORS' SIGNATURES**

A. Ralph Ellis

A. Ralph Ellis, Esq.  
Public Chairperson

Jay W. Lewis  
Industry Panelist

Peter Glasser (concurring in part/dissenting in part)  
Public Panelist

Date of Decision: January 14, 1998

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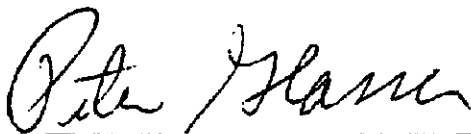
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Public Chairperson

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Jay W. Lewis  
Industry Panelist



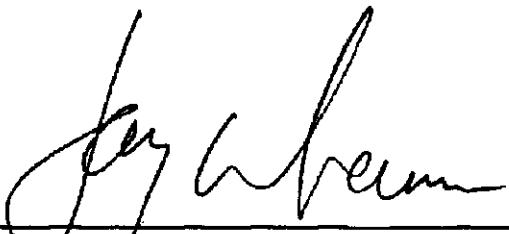
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Peter Glasser (concurring in part/dissenting in part)  
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