

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between	:	
	:	
Fred R. & Loris Gayer	:	
	:	
Claimants	:	Case #88-00845
	:	
VS.	:	AWARD
	:	
	:	
Merrill Lynch, Pierce, Fenner & Smith, Inc.	:	
	:	
Respondent	:	

CASE SUMMARY

Claimants, Fred R. & Loris Gayer alleged that Respondent, Merrill Lynch, Pierce, Fenner & Smith, Inc. entered into account transactions in their account that were not authorized. Respondent filed a Motion to Dismiss the Statement of Claim on the principle of res judicata and/or collateral estoppel. Respondent further denied all allegations asserted in the Statement of Claim.

RELIEF REQUESTED

Claimants requested damages of Respondent in the amount of \$13,500.00. Respondent requested that the Claimants' claim for damages be dismissed and that costs be assessed against the Claimants.


AWARD

On September 20, 1989 in three hearing sessions, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed by Claimants, Fred R. & Loris Gayer on December 15, 1987, and not signed by Respondent, Merrill Lynch, Pierce, Fenner & Smith, Inc. as required by Sections 12 and 25 of the Code of Arbitration Procedure. The initial claim was filed on March 15, 1988. The arbitration panel, having considered the pleadings, the testimony, and the evidence presented at the hearing has determined in full and final resolution of the issues submitted for determination as follows:

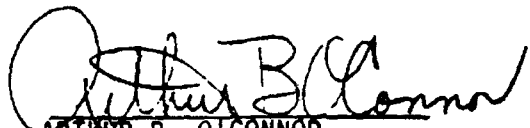
1. The Respondent's Motion to Dismiss the Statement of Claim on the grounds that the claims are barred by principles of res judicata and/or collateral estoppel is denied.
2. The claim of the Claimants be and hereby is dismissed in its entirety.

3. The parties shall each bear their respective costs including attorneys' fees.
4. Pursuant to Section 43 of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall retain the \$500.00 filing fee previously deposited by the Claimants as costs of the three hearing sessions conducted in this matter. All other forum fees are waived.

ARBITRATORS CONCURRING


GUILLERMO L. BOSCH, ESQ.


DONALD L. BRUTON, ESQ.


ARTHUR B. O'CONNOR

Dated: October 10th, 1989