

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between

RAY KENNELLY

Claimant

and

MERRILL LYNCH, PIERCE, FENNER & SMITH,
INC.

Respondent

CASE NO. 88-01965

CASE SUMMARY

Ray Kennelly ("Claimant") alleged that Merrill Lynch, Pierce, Fenner & Smith, Inc. breached its agreement and fiduciary duty to the Claimant by not watching the Claimants' account as its agent had promised.

Respondent denied the claims of the Claimant.

RELIEF REQUESTED

Claimant requested damages of \$37,867.00. Respondent requested that the Claims of the Claimant be dismissed and that the Claimant be assessed the cost of the proceeding.

AWARD

On June 20, 1988 the NASD received the Claimant's claim. On May 17, 1990 during a hearing lasting one (1) session, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed on April 24, 1988 by Claimant and on June 13, 1989 on behalf of Respondent.

The arbitration panel, having considered the pleadings, the testimony, and the evidence presented at the hearing, has decided in full and final resolution of the issues submitted for determination as follows:

1. All claims asserted by the Claimant against Respondent are hereby dismissed.
2. The parties shall bear their own costs' including attorneys' fees.

3. Pursuant to Section 43(b) of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall retain as forum fees, the \$400.00 filing fee previously deposited with the NASD by the Claimant.

By the Panel

Dated: 5-29-90 /S/ Frederick A. Bohling, Esq.
Presiding Chair

Dated: 6-15-90 /S/ Thomas Donald Redmond

Dated: 5-29-90 /S/ Raymond P. Kvalvog

Date Served: 6-18-90