

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between

Barbara Goldstein

Claimant

vs.

Merrill Lynch, Pierce, Fenner
& Smith, Inc. and Burton J. Rosen

Respondents

CASE NO. 88-02649

Heard Before the Members of the Arbitration Panel:

Sheldon M. Jaffe, Esq.
Ian C. Sitren
John B. Wells

SUMMARY OF ISSUES

This case was filed on August 19, 1988.

On August 5, 1987, Claimant Barbara Goldstein delivered to Respondents Merrill Lynch, Pierce, Fenner & Smith, Inc. and Burton J. Rosen 12,500 shares of Medicom Industries with instructions to sell the shares as quickly as possible. The shares, however, were restricted and could not be sold until certain reports were filed by the corporation with the Securities Exchange Commission. The price per share on August 5, 1987 was \$1.25. Claimant sold her shares through another brokerage on December 24, 1987 for \$0.25 per share.

Claimant alleges that Respondents knew that the restriction was in effect and their delay in informing Claimant of said restriction lead to the loss incurred.

Respondents allege that Claimant was fully informed as to the problems Respondents were having in getting information from the corporation regarding the restriction. Respondents would have redelivered the shares to Claimant if she had asked them to do so. Respondents also allege that Claimant's inaction caused her loss.

DAMAGES AND RELIEF REQUESTED

Claimant seeks to recover the sum of \$12,500.00 representing the difference between the price for which the shares sold, \$0.25, and the purchase price, \$1.25, less normal commissions, plus interest from October 14, 1987.

Respondent seeks dismissal of the action in its entirety, and an award to Respondents of attorneys' fees and costs.

Prepared by the N.A.S.D. Staff
July 19, 1989