

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between	:
	:
Willard R. & Frances D. Sanders	:
	:
Claimants	:
vs.	:
	:
Merrill Lynch, Pierce, Fenner & Smith, Inc.	:
Patrick Santullo	:
Respondents	:
	:

AWARD

#88-02956

Case Summary

Claimants Willard R. and Frances D. Sanders, alleged that Respondents took their order to sell a mutual fund approximately 20 to 25 minutes before the market closed on October 16, 1987, and did not advise Claimants that there might be a problem in effecting the transaction that day. In fact, did not effect the transaction that day, but did so the next day, so that the Claimants experienced a decrease in the amount of proceeds from the sale in the amount of \$3,186.83.

Respondents maintained that while they did take the order, the Claimants were advised that it might be difficult to affect the transaction that day, and it would be effected the next day if the difficulty arose.

Relief Requested

Claimants requested the sum of \$3,186.83 being the difference between the closing price on the mutual funds sold on October 16, 1987 and October 19, 1987.

Award

On February 28, 1990, the undersigned arbitrator heard the controversy between the parties as set forth in submissions to arbitration signed by Claimants Willard R. and Frances D. Sanders on September 14, 1988, by Respondent Merrill Lynch, Pierce, Fenner & Smith, Inc. on February 27, 1989 and by Respondent Patrick Santullo on March 2, 1989. The hearing was held in Louisville, Kentucky and consisted of one session. The arbitrator, 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 is liable to the Claimants and shall pay to the Claimants the sum of Three Thousand One Hundred Eighty Six and Eighty Three Cents (\$3,186.83); no interest is awarded on this amount.
2. The parties shall each bear their respective costs including attorney fees.
3. Pursuant to Section 43 of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall refund the \$100.00 filing fee previously deposited by the Claimant.
4. Respondent is assessed forum fees in the amount of \$100.00 payable to the NASD, Inc. through staff counsel in accordance with Section 43 of the Code of Arbitration Procedure.

ARBITRATOR

/s/
Robert P. Ross