

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between :
: Nino P. Cerniglia : AWARD
: Claimant : #88-03813
vs. :
: Merrill Lynch, Pierce, Fenner & Smith, Inc. :
: Respondent :

Case Summary

Claimant Nino P. Cerniglia alleged that Respondent Merrill Lynch, Pierce, Fenner & Smith, Inc. failed to execute orders to sell common stock on October 19, 1987, misrepresented the amount of commission discounts that he would receive and allegedly inflicted emotional distress on the Claimant by their actions.

Respondent maintained that pandemonium reigned on the stock market on October 19, 1989 and Merrill Lynch performed well in executing some of the sell orders of Claimant on that day. Merrill Lynch further denied that it misrepresented the amount of commission discount the Claimant was to receive for his account.

Relief Requested

Claimant Nino P. Cerniglia requested relief in the amount of \$16,640.00 plus interest, costs and attorneys fees. Respondent Merrill Lynch, Pierce, Fenner & Smith, Inc. requested that the claim of the Claimant be dismissed plus costs of its defense.

Award

On January 10, 1990 and January 19, 1990, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed by Claimant Nino P. Cerniglia on December 29, 1988 and by Respondent Merrill Lynch, Pierce, Fenner & Smith, Inc. on June 12, 1989. The hearing was held in Boston, Massachusetts and consisted of four (4) sessions.

The initial claim was filed on December 13, 1988. The arbitrators, 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. Respondent Merrill Lynch, Pierce, Fenner & Smith, Inc. is liable and shall pay to the Claimant Nino P. Cerniglia the sum of Four Thousand Seventy Four Dollars and Twenty One Cents (\$4,074.21).
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 retain the \$400.00 filing fee previously deposited by the Claimant. All other forum fees are waived.

CONCURRING ARBITRATORS

/s/
Charles E. White

/s/
Julien F. Begien

/s/
Joseph J. Slotnik