

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

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In the Matter of the Arbitration Between

Dynocite Ltd.,

Claimant

vs.

Merrill Lynch, Pierce, Fenner & Smith, Inc.,

Respondent  
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Case #88-03974

Award

CASE SUMMARY

Claimant, Dynocite Ltd., alleges that Respondent, Merrill Lynch, Pierce, Fenner & Smith, Inc., failed to properly execute its order of October 20, 1987, to sell XMZWF November 1987/430 puts at 45 or better. Claimant also alleges that Respondent wrongfully advised it to enter a market order to purchase XMYWR November 1987/390 which was, without notice to the Claimant, executed at 50 when Claimant alleges that it wished to purchase the November 1987/390 at a limit of 25.

Respondent denies the allegations of wrongdoing and denies liability. With respect to the November 1987/430 puts, Respondent alleges that it acted in accordance with accepted floor practices and procedures within the industry.

RELIEF REQUESTED

Claimant requests that the panel award it \$192,500 plus interest or such other relief that is determined by the panel to be appropriate, plus costs, attorney's fees and travel expenses. Respondent requests that the Statement of Claim be dismissed in its entirety.

AWARD

On January 24, 1990 and January 25, 1990, the undersigned arbitrators heard the controversy between the parties as set forth in a submission to arbitration signed by the Claimant on December 14, 1988 and by the Respondent on March 15, 1989. The hearing was held in New York, New York and consisted

of four sessions. 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. All claims asserted by the Claimant are hereby dismissed in their entirety.
2. The parties shall each bear their respective costs including attorneys' fees.
3. Pursuant to Section 43 of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall retain the \$750.00 filing fee previously deposited by the Claimant.
4. Respondent is assessed forum fees in the amount of \$2,250.00 payable to the NASD, Inc. in accordance with Section 43 of the Code of Arbitration Procedure.

CONCURRING ARBITRATORS

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Robert D. Owen

  
John E. McCracken

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Gary F. Goldring

Dated: February 9, 1990

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