

**NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.**

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Barry Paulsell	:
	:
Claimant	:
	:
v.	: <b>AWARD</b>
	: <b>#89-00356</b>
	:
Merrill Lynch, Pierce Fenner &	:
Smith, Inc.	:
	:
Respondent	:
	:
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**CASE SUMMARY**

The Statement of Claim was filed on February 6, 1989.

Claimant, Barry Paulsell, alleged that Respondent, Merrill Lynch, Pierce Fenner & Smith Inc. breached its fiduciary duty toward Claimant by giving him inaccurate information concerning market conditions in October of 1987 and by overstating the currentness of information causing Claimant substantial losses.

Respondent, Merrill Lynch, Pierce Fenner & Smith, Inc., denied all allegations of wrong-doing and maintained that due to the volatility of the market during the period in question-October 16th to October 19th of 1987-Mr. Paulsell was specifically informed that Respondent could not guarantee the accuracy of the prices shown on its quotron screen and that it was impossible for Respondent to provide him with an accurate price. Notwithstanding these caveats Claimant chose to enter market orders resulting in losses to Claimant.

**RELIEF REQUESTED**

Claimant, Barry Paulsell, requested an award in the amount of \$154,000.00 plus interest, costs and attorneys' fees.

Respondent, Merrill Lynch, Pierce Fenner & Smith, Inc., requested dismissal of the claim and that costs of this proceeding be assessed against Claimant.

**AWARD**

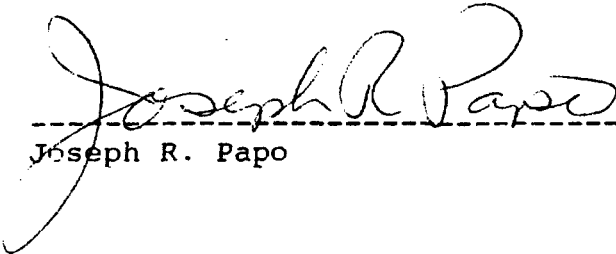
On October 11, 1990, the undersigned arbitrators heard the controversy between the Parties set forth in submissions to arbitration signed by the Claimant, Barry Paulsell, on January 1, 1989 and by Respondent, Merrill Lynch, Pierce Fenner & Smith, Inc. on April 4, 1989. The hearing was held in Detroit, MI and consisted of three (3) sessions.

AWARD-#89-00356

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 of the Claimant be and hereby are dismissed in all respects;
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. Claimant, Barry Paulsell, and Respondent, Merrill Lynch, Pierce Fenner & Smith, Inc., are each assessed forum fees in the amount of \$750.00 payable to the NASD. Inc. through its staff administrator in accordance with Section 43 of the Code of Arbitration Procedure

**ARBITRATOR CONCURRING**

  
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Joseph R. Papo

Dated: 12/12/90