

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between

EDMUND D. & MARGARET J. MESLOH

Claimants

and

MERRILL LYNCH, PIERCE, FENNER & SMITH,
AND MARK P. INGRAM

Respondents

CASE NO. 89-00753

CASE SUMMARY

In a claim filed with the NASD on March 6, 1989, Claimants Edmund D. & Margaret J. Mesloh alleged that Respondents Merrill Lynch, Pierce, Fenner & Smith, Inc. and Mark P. Ingram recommended the purchase of a short position which Claimants purchased. On the next trading day, Respondents were unable to provide information regarding the underlying security to Claimants. Claimants requested that the trade be busted, which Respondent did not do. Claimants purchased back the option at a later date at a loss.

In the joint Answer filed with the NASD on May 17, 1989, Respondents state that they acted properly in handling the Claimants account. Respondents further state that they were unable to provide the Claimants with any information regarding this transaction since the underlying security was placed on the "restricted list" of Merrill Lynch, Pierce Fenner & Smith, Inc.

RELIEF REQUESTED

Claimants requested an award in the amount of \$13,117.35. Respondents requested that the Statement of Claim be dismissed and that Respondents be awarded their attorneys fees, costs and expenses.

AWARD

On Thursday, December 14, 1989 in Oklahoma City, Oklahoma during a hearing lasting two sessions, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed on February 27, 1989 by Claimants Edmund D. and Margaret J. Mesloh, on May 16, 1989 by Donald N. Malowsky on behalf of Respondent Merrill Lynch, Pierce, Fenner & Smith, Inc. and on April 10, 1989 by Respondent Mark P. Ingram.

The arbitration panel, having considered the pleadings, the testimony, and the evidence presented at the hearing, has decided in full and final resolution of the issues submitted for determination as follows:

1. The Statement of Claim shall be and is hereby dismissed in its entirety;
2. The parties shall each bear their respective costs, expenses and attorneys' fees incurred in this matter; and
3. Pursuant to Section 43(b) of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall retain as forum fees, the \$400.00 filing fee previously deposited with the NASD by the Claimants Edmund D. and Margaret J. Mesloh.

By the Panel

Dated: <u>12/14/89</u>	/S/ <u>John K. Ulrey</u> Presiding Chair
Dated: <u>12/14/89</u>	/S/ <u>Carolyn Anne Messler</u>
Dated: <u>12/14/89</u>	/S/ <u>Freeman H. Beets</u>

Date Served: 12-27-89