

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between

Paul A. Clark

Claimant

vs:

Merrill Lynch, Pierce, Fenner & Smith, Inc.

Respondent

CASE #89-01142  
AWARD

Case Summary

Claimant alleged that Respondent improperly sold stock in his cash management account and failed to reinstate his account to its position prior to the sale upon his request. Respondent maintained that Respondent's broker made recommendations for the sale in good faith. Respondent denied all allegations of wrongdoing, asserting that Respondent accomplished the requested task of the Claimant.

Relief Requested

Claimant requested that his account be reinstated as it was before the sale of the 1,800 shares of West Point Pepperell and 1,000 shares of James River. The Respondent requested that the claim of the Claimant be dismissed and costs be assessed against the Claimant.

Award

On September 27, 1989 in Atlanta, Georgia, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed by Claimant Paul A. Clark on May 5, 1989 and by Respondent Merrill Lynch, Pierce, Fenner & Smith, Inc. on June 21, 1989. The initial claim was filed on April 14, 1989. 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. The claim of the Claimant Paul A. Clark be and hereby is dismissed in its entirety.
2. The parties shall each bear their respective costs including attorney's fees.
3. Pursuant to Section 43 of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall retain the \$500.00 filing fee previously deposited by the Claimant as costs of

the two hearing sessions conducted in this matter. All other forum fees are waived by the panel.

Concurring Arbitrators

Christopher Moran, Esq.

Winnie Pannell, Esq.

John P. Ehrensperger

Dated: 10/24/89