

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant(s)

Anthony Thomas Savarese, Trustee, et al.

89-01623

Name of Respondent(s)

Merrill Lynch, Pierce Fenner & Smith Inc
Richard Kraft

SUMMARY OF ISSUES

This case was filed with the National Association of Securities Dealers, Inc. ("NASD") on June 2, 1989. Claimant alleged negligence and fraud in connection with an order to purchase "puts" on the OEX option market which was not filled. Claimant also alleged breach of fiduciary relationship and breach of contract. Respondents denied each of the allegations of the Statement of Claim and asserted five affirmative defenses.

DAMAGES AND RELIEF REQUESTED

Claimant sought: (1) compensatory damages in the minimum sum of \$1,000,000.00, (2) compensatory damages in an amount equal to the highest sale price on Savarese's investment had his order been properly executed and filled and/or had Respondent properly filled the order, and (3) punitive damages.

DAMAGES AND RELIEF AWARDED

On October 23, 1990 the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed by Claimant on May 5, 1989, by Respondent Merrill Lynch on August 29, 1989, and by Respondent Richard Kraft on August 29, 1989.

The hearing was conducted in Los Angeles, California and lasted two 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. Each and every claim against Respondents is dismissed.
2. The parties shall each bear their respective costs including attorneys' fees.
3. In accordance with Section 43 of the NASD Code of Arbitration Procedure, the NASD shall retain the \$1,000.00 filing fee previously deposited by the Claimant [as an assessment of forum fees by the arbitrators]. In addition, Respondent Merrill Lynch is liable for reimbursing Claimant said \$1,000.00 filing fee.

Arbitrator(s) Signature

Linda Lee Weber

Lambert M. Javelera, Esq.

Bert Levy