

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between)

Harry Finch)
Sharon Finch)

Claimants)

vs.)

Merrill Lynch Pierce Fenner & Smith, Inc.)
Robert M. Brenner)
Respondents)

AWARD

NASD NO. 89-01966

SUMMARY OF ISSUES

Claimants alleged Respondents breached their fiduciary duty to Claimants, made material misrepresentations regarding the risks of margin trading, engaged in unauthorized trading in common stocks in their account, and failed to supervise the Registered representative.

Respondents denied all allegations, and asserted that all trades were authorized and that the risks of margin trading were explained in detail and written materials provided. Respondents further asserted that Claimants' losses were the result of the market crash of October, 1987, and Claimants' own decision to get out of the market.

DAMAGES AND RELIEF REQUESTED

Claimants requested damages of \$279,505.00, restoration of all Claimants' accounts at full market value, and punitive damages.

Respondents requested dismissal of all claims and an award of costs of arbitration.

DAMAGES AND RELIEF AWARDED

This claim was filed with the NASD on July 11, 1989. On August 1 and 2, 1990, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed by Claimant Harry Finch on February 23, 1989, by Claimant Sharon Finch on May 26, 1989, by Respondent Merrill

Page 1 of 2

Lynch's authorized representative on October 2, 1989, and by

Lynch's authorized representative on October 2, 1989, and by Respondent Brenner on October 4, 1989. The hearing was conducted in Los Angeles, California and lasted three 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 as follows:

1. All claims brought by Claimants are 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 \$750.00 filing fee previously deposited by the Claimants.

ARBITRATORS CONCURRING

DATE SERVED: 09/07/90



John P. McShane