

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between)	
Philip Beitpolice)	
)	
Claimant)	
vs.)	AWARD
)	
Merrill Lynch, Pierce,)	NASD #90-01800
Fenner & Smith, Inc.)	
)	
Respondent)	

SUMMARY OF ISSUES

Claimant alleged unauthorized trading, breach of fiduciary duty, churning, lack of suitability, fraud, RICO violations and emotional distress arising from options trading in his account.

Respondent denied all allegations, denied liability for any losses in the account, and asserted that all applicable statutes of limitations had run before the filing of this arbitration claim.

DAMAGES AND RELIEF REQUESTED

Claimant requested damages of approximately \$200,000, plus treble RICO damages, interest, attorney's fees and costs.

Respondent requested dismissal of all claims.

DAMAGES AND RELIEF AWARDED

This claim was filed with the NASD on June 25, 1990. On February 12, 1991, the undersigned arbitrators convened a hearing and heard oral argument on Respondent's Motion to Dismiss. Submission agreements were executed by Claimant on September 18, 1989, and by an authorized representative of Merrill Lynch on August 29, 1990. The hearing was conducted in San Francisco, California and lasted one (1) session. The arbitration panel, having considered the Motion papers, the pleadings, and the oral argument presented at the hearing, has determined in final resolution of the issues submitted as follows:

1. Respondent's Motion to Dismiss is granted.
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 Claimant.

OTHER ISSUES

None.

ARBITRATORS CONCURRING

DATE SERVED: 02/22/91

John O. Blevins, Jr.
John O. Blevins, Jr.