

**MSRB**  
MUNICIPAL SECURITIES RULEMAKING BOARD

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In the Matter of the Arbitration between	:	
WILLIAM T. HOUGH and NORMA P. HOUGH,	:	AWARD
Claimants.	:	
v.	:	
MERRILL LYNCH, PIERCE, FENNER & SMITH INC.,	:	MS 89-28
Respondent.	:	

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The Undersigned, pursuant to section 31 of MSRB rule G-35, hereby state as follows:

**CASE SUMMARY**

Claimants William T. Hough and Norma P. Hough alleged an improper execution of an order and lack of communication by Respondent Merrill Lynch, Pierce, Fenner & Smith Inc. in the sale of certain bonds from their account. Claimants also alleged, inter alia, that Respondent violated the unfair competition and antitrust laws. Respondent maintained, inter alia, that it acted properly, that Claimants were contributorily at fault, and that Claimants failed to mitigate damages.

**RELIEF REQUESTED**

Claimants requested actual damages of approximately \$51,103 which amount included their costs and expenses, arbitration deposit and attorney's fees. In addition, Claimants requested punitive and treble damages, for a total damage claim of approximately \$3,000,000. Claimants also requested injunctive relief. Respondent requested dismissal of the Statement of Claim and its costs and expenses.

**AWARD**

On November 2 and 3, 1989, in New York City, the undersigned arbitrators heard the controversy between the parties set forth in submissions to the arbitrators signed by Claimants on February 18, 1989 (filed with the MSRB on March 27, 1989) and by Respondent on May 19, 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 issue submitted for determination as follows:

Respondent shall pay to Claimants actual damages of \$17,500. No punitive or treble damages are awarded and no injunctive relief

is awarded. Each of the parties shall bear its own costs and expenses, including attorney's fees. With respect to Claimants' costs, this shall include all reasonable costs incurred in connection with the appearance of Richard Frangipane at the hearing, pursuant to section 22 of MSRB rule G-35. Pursuant to section 2 of MSRB rule A-16, Claimants' \$1,000 arbitration deposit shall be retained by the MSRB as forum fees and, Respondent shall pay to the MSRB \$1,000 as forum fees.

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Public Arbitrator

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Public Arbitrator

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Public Arbitrator

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Industry Arbitrator

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Industry Arbitrator

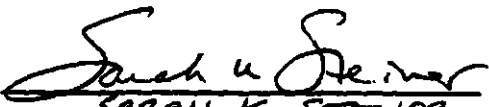
Dated:

*Dec 11 1989*

STATE OF ~~NEW YORK~~  
COUNTY OF ~~NEW YORK~~

ss.:

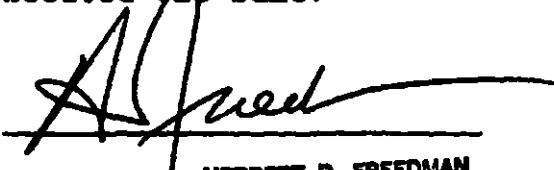
On this 16<sup>th</sup> day of November, 1989, before me personally appeared \_\_\_\_\_ to me known and known to me to be the individual described in and who executed the foregoing instrument and he duly acknowledged to me that he executed the same.

  
SARAH K. STEINER  
NOTARY PUBLIC  
STATE OF NEW YORK  
NO 31-4941573  
QUALIFIED IN NEW YORK COUNTY  
COMMISSION EXPIRES 8-29-90

STATE OF ~~NEW YORK~~  
COUNTY OF ~~NEW YORK~~

ss.:


On this 28 day of Nov, 1989, before me personally appeared \_\_\_\_\_ to me known and known to me to be the individual described in and who executed the foregoing instrument and he duly acknowledged to me that he executed the same.

  
HERBERT D. FREEDMAN  
Notary Public, State of New York  
No. 4796898  
Qualified in Westchester County  
Commission Expires March 20, 1990

STATE OF ~~NEW JERSEY~~  
COUNTY OF ~~BERGEN~~

ss.:

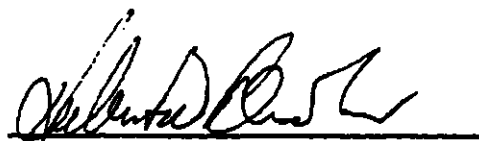
On this 1st day of December 1989, before me personally appeared \_\_\_\_\_ to me known and known to me to be the individual described in and who executed the foregoing instrument and he duly acknowledged to me that he executed the same.

  
Notary Public - New Jersey  
Commission expires 2/10/90

STATE OF *New York*  
COUNTY OF *New York*

SS.:

On this *7<sup>th</sup>* day of *DECEMBER*, 19*89*, before me personally appeared \_\_\_\_\_ to me known and known to me to be the individual described in and who executed the foregoing instrument and she duly acknowledged to me that she executed the same.



**HERBERT W. BROOKS**  
Notary Public, State of New York  
No. 43-4512860  
Qualified in Richmond County  
Commission Expires *March 22, 1991*

STATE OF *CONNECTICUT*  
COUNTY OF *FAIRFIELD*

SS.:

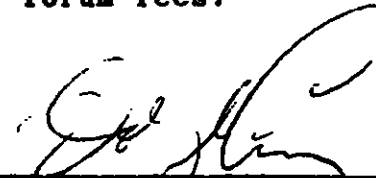
On this *11<sup>th</sup>* day of *DECEMBER*, 19*89*, before me personally appeared \_\_\_\_\_ to me known and known to me to be the individual described in and who executed the foregoing instrument and he duly acknowledged to me that he executed the same.



**SLAVICA L. PREVELIGE**  
**NOTARY PUBLIC**  
My Commission Expires March 31, 1994.

is awarded. Each of the parties shall bear its own costs and expenses, including attorney's fees. With respect to Claimants' costs, this shall include all reasonable costs incurred in connection with the appearance of Richard Frangipane at the hearing, pursuant to section 22 of MSRB rule G-35. Pursuant to section 2 of MSRB rule A-16, Claimants' \$1,000 arbitration deposit shall be retained by the MSRB as forum fees and, Respondent shall pay to the MSRB \$1,000 as forum fees.

  
Robert B. Weintraub

  
Dolph Cramer

  
James M. Ransom

  
Patricia D. Harriton

  
Richard W. Rand

Dated: Dec 11 1989