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Arbitration

National Association of
Securities Dealers, Inc.
NASD Financial Center
33 Whitehall Street
New York, New York 10004

September 17, 1996

Merrill Lynch, Pierce Fenner & Smith, Inc.
Maxmin S. Cohen, Esq.
2 Broadway, 31st Floor
New York, New York 10080-6031

RE: NASD Arbitration #96-01242
Kellard vs. Merrill Lynch and Timothy Ness Brenner

Dear Mr. Cohen:

Please be advised that the Director of Arbitration has reviewed and reconsidered the motion to dismiss the above referenced case under Section 15 of the Code of Arbitration Procedure. The decision to deny this motion stands.

It has been determined that the purchase date is not the event or occurrence that gave rise to this dispute. Also, Section 15 does not refer specifically to the purchase date as the time that the six year limitation begins to run. Therefore, it is equally appropriate that the discovery by the claimant be treated as the occurrence or event giving rise to the dispute. The respondents may, in their discretion, reassert this motion to the selected panel of arbitrators.

In light of the above, the claimants are required to submit an amended statement of claim which excludes the time-barred commodities trading issues. The original amendment should be forwarded to the NASD with copies to the respondents within ten (10) business days. The respondents are required to file a statement of answer within 10 days of receipt of the amended claim.

Please be advised that if an amendment is not received on or before October 3, 1996, this case will be closed and the hearing session deposit will be refunded to the claimants.

Very truly yours,

Dana Giambona
Pleadings Legal Assistant
(212) 858-4367

CC: Jeffrey Dennis Parents, Esq.

EXHIBIT D-3

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