

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between :
David E. Etzold, Executor :
Claimant :
vs. : CASE #91-01575
Eppler, Guerin & Turner, Inc. : AWARD
Respondent :

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on May 21, 1991, Claimant David E. Etzold, Executor, who appeared Pro Se, alleged that on March 15, 1990 he submitted explicit written transfer instructions along with the required documentation to Respondent Eppler, Guerin & Turner, Inc. to facilitate the transfer of 1180 ACM Government Security Fund, Inc. ("ACM") form Gilbert Yaeger to Mary Francis Etzold and upon receipt of these certificates Claimant would sell the shares. Claimant further alleged that he had several meetings and telephone conversations with Mr. Barron Fletcher and Mrs. Sue Ledlow of Respondent's El Paso office on the subject of the sale of the ACM Government Security Fund, Inc. certificates once the transfer was complete. Claimant contended that at no time did Respondent advise him that since they held the 1180 ACM certificates, they could liquidate them without issuing new shares in the beneficiary's name. Claimant further contended that on May 17, 1990 the ACM certificates were sold and subsequently, on July 17, 1990 the remaining 308 ACM shares from Boston Financial Data Services, Inc. was received and immediately sold. Claimant asserted that Respondent's delay in transferring the certificates was unjustifiable and unreasonable whereby during this delay the value of the ACM certificates declined, thus, causing Claimant to sustain losses.

Respondent Eppler, Guerin & Turner, Inc. by and through their in-house counsel James W. Massie, III, Esq., maintained that Claimant David E. Etzold, Executor addressed his March 15, 1990 letter to their branch office whereby he advised them to expect another mailing containing ACM certificates and did not mention any sale pending but rather directly instructs re-issue into the name of the beneficiary. Respondent further maintained that no

certificates ever came to the branch because Respondent was already holding 1180 shares and Boston Financial Data Services, Inc. held the rest. Respondent contended that just before May 1, 1990 when they transferred the 1180 ACM shares into the beneficiary, as instructed, the account executive contacted the new owner (beneficiary) to request further instructions and was told "I don't know what I want to do", at which time, Respondent was later advised to deliver the certificates. Respondent further contended that they acted within normal administrative parameters when Claimant had supplied full and complete information necessary to complete the transfer and if Claimant indicated that liquidation of the shares involved was desired or needed, Respondent could have liquidated simultaneously with the decedent's shares being voided, thereby, being no need to issue new shares. Respondent asserted that Claimant's damages, if any, were not caused by Respondent but were caused by his own actions and omissions, or the actions of third parties.

RELIEF REQUESTED

Claimant David E. Etzold, Executor requested \$1,510.05 in actual damages.

Respondent Eppler, Guerin & Turner, Inc. requested the claim be dismissed and all costs and expenses be assessed against Claimant.

AWARD

Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Donald H. Fidler, Esq., was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on May 13, 1991 and by the Respondent on September 17, 1991.

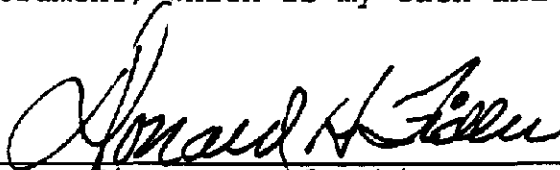
And, the Arbitrator, having considered the proof of the Parties, has decided and determined in full and final resolution of the issues submitted for determination as follows:

1. The claim of Claimant David E. Etzold, Executor against Respondent Eppler, Guerin & Turner, Inc. is dismissed.
2. The parties shall bear their respective costs.

3. The \$50.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant David-E. Etzold, Executor shall be retained by the NASD, Inc. Respondent Eppler, Guerin & Turner, Inc. is liable and shall pay to the Claimant the sum of \$50.00 as reimbursement.

AFFIRMATION

I, DONALD H. FIDLER, ESQ., do hereby affirm upon my oath as arbitrator that I am the individual described herein and who executed this instrument, which is my oath and award.



Signature of Arbitrator

DATE OF DECISION: October 29, 1992