

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between :
:
Mary T. Schmitz :
:
Claimant : CASE #91-02445
:
vs. : AWARD
:
Arthur Obermeier :
Respondent :

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on August 7, 1991, Claimant, Mary T. Schmitz by and through her counsel, William M. Schmitz, Esq., Boulder, Colorado, alleged that Respondent Arthur Obermeier charged her a 4.75% commission on a \$50,000.00 purchase of Colorado Bondshares, when as a spouse of a Trustee of this Fund, she was eligible to purchase this investment at "net asset value". Claimant further alleged that Respondent was notified of the error and has refused to reimburse Claimant for the commissions charged.

Respondent, Arthur Obermeier, maintained that Claimant, Mary T. Schmitz, purchased the Colorado Bondshares through the broker/dealer when she could have purchased directly from the Fund. Respondent further maintained that the prospectus of the Fund did not state that the broker/dealer or account executive was required to sell at "net asset value". Respondent contended that Claimant paid the commissions to the broker/dealer, Hanifen Imhoff Securities Corporation and that Claimants' claim should be against them but they declared bankruptcy in February, 1990. Respondent further contended that he received 40% of the gross commission and if found liable he should only be assessed the amount he received.

RELIEF REQUESTED

Claimant, Mary T. Schmitz requested \$2,175.00 in actual damages plus interest at the rate of 8% per annum from February 8, 1989.

Respondent, Arthur Obermeier requested that the claim be dismissed or in the alternative a maximum damage award of

\$850.00, representing his 40% of the gross commission

AWARD

Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Holly S. Stein, 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 July 31, 1991 and by the Respondent on October 4, 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. Respondent, Arthur Obermeier is liable and shall pay to the Claimant, Mary T. Schmitz \$850.00 in damages.
2. Respondent, Arthur Obermeier is liable and shall pay to the Claimant, Mary T. Schmitz simple interest at the rate of 8% per annum from February 8, 1989 to the date of payment of the award.
3. The parties shall bear their respective costs.
4. The \$50.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant shall be retained by the National Association of Securities Dealers, Inc. The Respondent, Arthur Obermeier shall pay \$50.00 to the Claimant, Mary T. Schmitz as reimbursement.

AFFIRMATION

I, **HOLLY S. STEIN, 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.

-----*Holly S. Stein*-----
Signature of Arbitrator

DATE OF DECISION: February 13, 1992