

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

 In the Matter of the Arbitration Between :

Robert & Elizabeth Zeller :

Claimants :

CASE #91-03194
 AWARD

vs. :

MCW, Inc. :

Paul J. Anderson :

Respondents :

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on October 11, 1991, Claimants Robert & Elizabeth Zeller, through their counsel, James M. Ziegler, of Humphrey Farrington, et al., Independence, MO, alleged that Respondent Paul J. Anderson, as a representative of Respondent MCW, Inc. made an error when he was instructed to purchase 500 shares of Brite Voice with the proceeds from a sale of 500 shares of Apple Bees stock and instead bought 1,000 shares of Brite Voice stock. The Claimants further alleged that this transaction caused a debit and the Respondents opened a margin account, without the Claimants' knowledge or consent. The Claimants contended they learned of the margin account when they received a notice of a margin debt, and that their 1,000 shares of Brite Voice were sold at a loss to cover the debit balance, causing a loss to the Claimants.

Respondents, MCW, Inc. and Paul J. Anderson, through their counsel, J. Bret Armatas, Esq., of Calkins, Weisenfels & Vaughan, Kansas City, MO, maintained that the Claimants authorized and consented to the purchase of 1,000 shares, and that they received confirmations regarding the transactions and monthly statements which showed the 1,000 share purchase, plus interest charges. The Respondents further maintained that since the Claimants did not complain of this purchase for over three months, they failed to mitigate damages.

RELIEF REQUESTED

Claimants Robert & Elizabeth Zeller requested \$4,710.00 in actual damages, plus interest, costs and attorney's fees.

Respondents MCW, Inc. and Paul J. Anderson requested the claims of the Claimants be dismissed and that they be awarded costs and attorney's fees.

AWARD

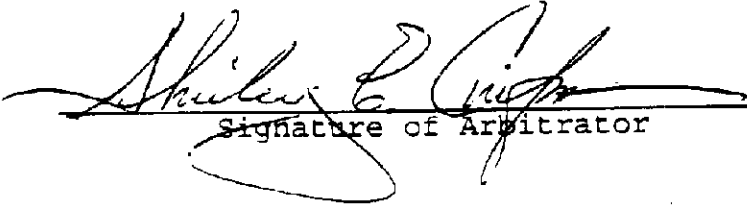
Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Shirley E. Curfman, was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimants on October 7, 1991, by the Respondent MCW, Inc. on October 25, 1991 and by Respondent Paul J. Anderson on November 8, 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. Respondents MCW, Inc. and Paul J. Anderson are jointly and severally liable and shall pay to Claimants Robert & Elizabeth Zeller \$3,869.00 in actual damages, plus simple interest at the rate of 9% from February 28, 1990 to the date of payment of the award.
2. Respondents MCW, Inc. and Paul J. Anderson are jointly and severally liable and shall pay attorney's fees to Claimants Robert & Elizabeth Zeller pursuant to the client agreement. Claimants Robert & Elizabeth Zeller shall present an invoice from their counsel, James Ziegler, Esq. to the Respondents, who shall pay to them attorney's fees in an amount not to exceed \$1,000.00.
3. The parties shall bear their respective costs.
4. The \$125.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimants shall be retained by the NASD, Inc. Respondent MCW, Inc. is liable and shall pay \$125.00 to Claimants as reimbursement.

AFFIRMATION

I, SHIRLEY B. CUREMAN, 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: September 21, 1992