

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Name of Claimants

Suzanne R. Kowalski

93-05244

Name of Respondents

McLaughlin, Piven, Vogel Incorporated

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**CASE SUMMARY**

In a claim filed with the National Association of Securities Dealers, Inc. on December 20, 1993, Claimant Suzanne R. Kowalski, through her counsel Neil M. Rose, Esq., Glen Ellyn, Illinois, alleged that she purchased a quantity of Illinois State G/O Savings Bonds ("Savings Bonds") through Respondent McLaughlin, Piven, Vogel Securities Inc. Claimant further alleged that she made several requests to her broker at Respondent to deliver the Savings Bonds to her, but she never received them. Claimant contended that she has been charged a fee by Respondent for retaining custody of the Savings Bonds. As a result of the above, Claimant alleged that she has suffered damages for which the Respondent should be held liable.

Respondent McLaughlin, Piven, Vogel Securities Inc., through its representative Ira A. Cohen, maintained that Claimant purchased a \$20,000.00 face value Illinois State G.O. College Savings Zero Coupon Bond from Respondent in 1989. Respondent further maintained that in October, 1990, it implemented an Annual Service and Maintenance Fee, which covered the period from October 1 through the following September 30th. Respondent contended that it notified its clients numerous times of this annual fee on monthly statements and in an informational mailing. Respondent further contended that its Back Office never received instructions to ship the security in question to Claimant. Respondent maintained that Claimant should not have waited years to find out why her certificate was not shipped to her. As a result of the above, Respondent contended that it should not be held liable in this matter.

**RELIEF REQUESTED**

Claimant Suzanne R. Kowalski requested \$665.00 in actual damages, \$500.00 in attorney's fees and delivery of 20,000 Illinois State G/O College Savings Bonds owned by Claimant and in custody of Respondent.

Respondent McLaughlin, Piven, Vogel Securities, Inc. requested \$500.00 in transportation and lodging costs, \$500.00 in attorney's fees, and that the Claimant's Statement of Claim be dismissed in its entirety.

**OTHER ISSUES CONSIDERED & DECIDED**

Claimant Suzanne R. Kowalski's Motion to Strike Respondent McLaughlin, Piven, Vogel Securities Inc.'s Statement of Answer was reviewed and considered by the arbitrator and was denied.

**AWARD**

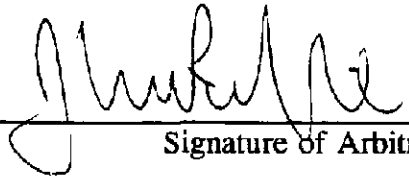
Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single public arbitrator, John R. Wylie, Esq. was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on December 17, 1993 and by the Respondent on March 3, 1994.

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 McLaughlin, Piven, Vogel Securities Inc. is liable and shall deliver all Illinois State G/O College Savings Bonds in Claimant Suzanne R. Kowalski's account to Claimant within two weeks of the date of the award. In addition, Respondent McLaughlin, Piven, Vogel Securities Inc. shall waive any account fees charged to Claimant. The remainder of Claimant's Statement of Claim is dismissed.
2. The parties shall bear their respective costs, including attorney's fees.
3. The \$30.00 filing fee previously deposited with the National Association of Securities Dealers by the Claimant shall be retained by the NASD, Inc.

**AFFIRMATION**

I, **JOHN R. WYLIE, ESQ.**, do hereby affirm upon my oath of arbitrator that I am the individual described herein and who executed this instrument, which is my oath and award.

  
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Signature of Arbitrator

DATE OF DECISION: July 28, 1994