

+16

9607/89

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Michelle G. Snyder

vs.

Award No.  
93-05322

Name of Respondents

S.N. Phelps & Co.  
Stanford Newton Phelps

© National Association of  
Securities Dealers, Inc.

All Rights Reserved

**REPRESENTATION**

For Claimant, Michelle G. Snyder ("Claimant"), appeared Michael S. Press, Esq. of Noumair Raid, P.C. located in New York, New York.

For Respondents S.N. Phelps & Co. ("Phelps & Co") and Stanford Newton Phelps ("Phelps") (collectively "Respondents"), appeared A. Robert Fischer, Esq. of Jackson, Lewis, Schnitzler & Krupman located in Stamford, Connecticut.

**CASE INFORMATION**

Statement of Claim was filed on December 27, 1993.

Claimant's Submission Agreement was signed on December 23, 1993.

A Joint Statement of Answer filed by Respondents, Phelps & Co. and Phelps, on February 25, 1994.

Respondent Phelps & Co.'s Submission Agreement signed on February 24, 1994.

Respondent Phelps' Submission Agreement signed on February 24, 1994.

**HEARING INFORMATION**

Pre-Hearing Conference:	June 29, 1995	-	1 session
Hearing Dates/Sessions:	October 9, 1995	-	2 Sessions
	October 10, 1995	-	2 sessions
	December 7, 1995	-	2 sessions
	January 18, 1996	-	2 sessions
	March 12, 1996	-	2 sessions
	March 13, 1996	-	2 sessions
	April 24, 1996	-	2 sessions
	June 7, 1996	-	2 Sessions

The hearing was held at the offices of NASD, Inc. located in New York, New York.

9607189

### **CASE SUMMARY**

Claimant alleged that, pursuant to Phelps & Co.'s written commission schedule, Respondents owed her \$45,471.00 plus interest in back-paid commission for transactions related to M-Corp bonds on December 24th, 1987. Claimant further alleged that she was wrongfully terminated because of her continuous demand of her commissions and rights. Claimant also alleged that, in order to intimidate and deter her from pressing her claim for commissions, Respondents maliciously filed a Form U-5 with the NASD, in which it falsely accused her of stealing valuable business records, knowing that the accusation was unfounded at the time of the filing.

Respondents jointly denied all of Claimant's allegations. Respondents jointly alleged that Claimant's claims are all barred by the statute of limitations according to the law of the state of Connecticut and the NASD Code. Respondents jointly maintained that Claimant failed to state a claim for the wrongful discharge allegation and that Claimant was discharged because of her poor performance for the year of 1987. Respondents jointly denied that they maliciously filed a false Form U-5 because it was required by the NASD to file such form when Claimant was terminated.

Respondent Phelps denied all claims against him because Claimant failed to allege any basis for personal liability of him in her Statement of Claim. Mr. Phelps also maintained that he only acted in his capacity as an officer of Phelps & Co. while Claimant was employed by the Company.

### **RELIEF REQUESTED**

Claimant requested a compensatory award against Respondents jointly and severally in the amount of \$42,963.00, plus interest, for back-paid commissions since February 1988. Claimant further requested punitive damages in the sum of five times the amount of compensatory damages awarded. Claimant also requested immediate payment of her cost of filing and prosecuting this claim, including reasonable attorneys' fees. Finally, Claimant requested other and further relief which the panel deems just and proper.

Respondents requested that Claimant's Statement of Claim be dismissed in its entirety. Respondents also requested attorneys' fees and all costs associated with the arbitration proceedings.

### **OTHER ISSUES CONSIDERED & DECIDED**

The parties have agreed that the Award in this matter may be executed in counterpart copies and have agreed to receive conformed copies of the Award while the original remains on file with the NASD.

### **AWARD**

After considering the pleadings, the testimony and the evidence presented at the hearing, the undersigned arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondents, Phelps & Co. and Phelps, are jointly and severally liable and hereby ordered to pay Claimant, \$45,471.00 plus simple interest at 9% per annum from 2/16/1988 until date of actual payment of the aforesaid sum.

9607189

2. Respondents are further liable for \$10,000.00 of Claimant's out-of-pocket expenses.
3. Claimant's request for Attorneys' fees is denied.
4. Respondents are hereby ordered to amend Claimant's Form U-5 to remove all derogatory statements regarding her.

#### **FORUM FEES**

Pursuant to Section 43(c) of the *Code of Arbitration Procedure*, the following Forum Fees are jointly and severally assessed against Respondents.

Non-refundable Filing Fee	-	\$500.00
Pre-Hearing Conference	-	\$300.00
Hearing Session Fee	-	\$12,000 (16 sessions @ \$750.00 per session)
Total Fees	-	\$12,800.00

1. Claimant previously paid \$1,250.00 and is entitled to a refund in that amount.
2. Respondents shall satisfy the fees assessed by reimbursing Claimant \$1,250.00 and by remitting the balance \$11,550.00 to the NASD.

Fees are payable to the National Association of Securities Dealers, Inc.

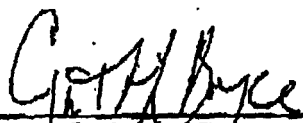
#### **ARBITRATION PANEL**

Cynthia L. Boyce, Esq.	-	Public Chairperson
Barry Feiden	-	Public Panelist
Edward W. Buckley	-	Industry Panelist

Award No. 93-05322  
Page 4

9607189

Concurring Arbitrator's Signature

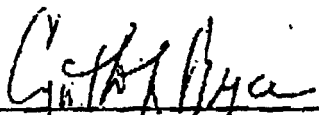
  
Cynthia L. Boyce, Esq.

NASD's Date of Decision: July 12, 1996

**AFFIRMATION**

**AFFIRMATION**  
**AFFIRMATION**

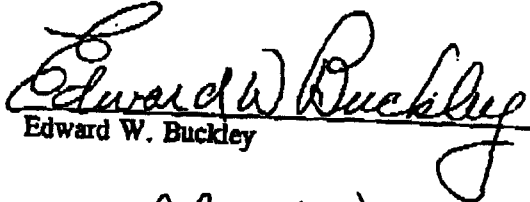
I, Cynthia L. Boyce, do hereby affirm pursuant to Article 7505 of the Civil Procedure Law and Rules, that this is my decision in the above captioned matter.

  
Cynthia L. Boyce, Esq.

Award No. 93-05322  
Page 4

9607189

Concurring Arbitrator's Signature

  
Edward W. Buckley

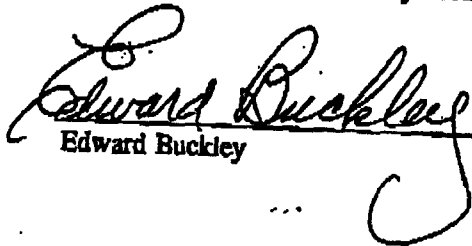


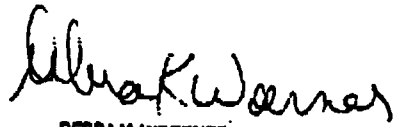
DEBRA K. WOERNER  
Notary Public, State of New York  
No. 01WO6018069  
Qualified in Suffolk County  
Commission Expires Sept. 20, 1997

NASD's Date of Decision: July 12, 1996

AFFIRMATION

I Edward Buckley, do hereby affirm pursuant to Article 7505 of the Civil Procedure Law and Rules, that this is my decision in the above captioned matter.

  
Edward Buckley

  
DEBRA K. WOERNER  
Notary Public, State of New York  
No. 01WO6018069  
Qualified in Suffolk County  
Commission Expires Sept. 20, 1997

Award No. 93-05322

Page 4

9607189

Concurring Arbitrator's Signature:

Barry Feiden  
Barry Feiden

NASD's Date of Decision: July 12, 1996

**AFFIRMATION**

I BARRY FEIDEN, do hereby affirm pursuant to Article 7505 of the Civil Procedure Law and Rules, that this is my decision in the above captioned matter.

Barry Feiden  
Barry Feiden