

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

Kristina Stafen

94-01051

Name of Respondents

James F. Welgos

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on March 18, 1994, Claimant Kristina Stafen, who appeared Pro Se, alleged that Respondent James F. Welgos sold her position in the Van Kampen Merritt Prime Rate Income Trust ("Income Trust") from her IRA on October 18, 1993, and with the proceeds purchased a position in the Van Kampen Merritt Select Sector Municipal Trust ("Municipal Trust") for her IRA on November 19, 1993 without her authorization. Claimant further alleged that between October 18, 1993 and November 19, 1993, Claimant never received an explanation of what happened to her account value. Claimant contended that the purchase of the Municipal Trust for her IRA was unsuitable and made solely for the purpose of generating commissions. Claimant further contended that Respondent subjected her to verbal harassment. Claimant alleged that in December, 1993, she decided to transfer her IRA, along with her daughter's custodial accounts, from Respondent to another firm. Claimant further alleged that her request to transfer her accounts took two months to process, during which her account value steadily declined in value. As a result of the above, Claimant contended that she has suffered damages for which the Respondent should be held liable.

Respondent James F. Welgos, who appeared Pro Se, maintained that Claimant called him in October, 1993, and said she was unhappy with her investment and wanted to do better. Respondent further maintained that on October 6, 1993, he

met with Claimant in her home to discuss her investment, and that Claimant said she was interested in investing in tax-free investments. Respondent contended he then told Claimant about the Municipal Trust. Respondent further contended that he told Claimant that tax-free investments are not appropriate for IRA's, and recommended two growth mutual funds to Claimant. Respondent maintained that Claimant insisted on purchasing the Municipal Trust for her IRA. Respondent further maintained that on October 15, 1993, he sold Claimant's interest in the Income Trust. Respondent contended that a confirmation statement for this sale was sent to Claimant the same day and the Claimant did not object to this sale. Respondent further contended that on November 19, 1993 he purchased an interest in the Municipal Trust for Claimant. Respondent maintained that a confirmation statement for this purchase was sent to Claimant the same day and Claimant did not object to this purchase. Respondent denied that he traded in Claimant's account solely for the purpose of generating commissions. Respondent contended that he had no control over the time it took to transfer Claimant's account to another firm. As a result of the above, Respondent contended that he should not be held liable in this matter.

RELIEF REQUESTED

Claimant Kristina Stafen requested \$2,000.00 in actual damages.

Respondent James F. Welgos requested that the Claimant's Statement of Claim be dismissed in its entirety.

AWARD

Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single public arbitrator, William J. Cooney, was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on March 10, 1994 and by the Respondent on May 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 James F. Welgos is liable and shall pay to Claimant Kristina Stafen \$1,970.00 in actual damages.
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 shall be retained by the NASD, Inc. Respondent James F. Welgos is liable and shall pay to Claimant Kristina Stafen \$50.00 as reimbursement of the filing fee.

AFFIRMATION

I, **WILLIAM J. COONEY**, 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.

A handwritten signature in cursive script, reading "William J. Cooney", is written over a horizontal line.

Signature of Arbitrator

DATE OF DECISION: July 25, 1994