

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant(s)

Elizabeth I. Schlagel

94-01525

Name of Respondent(s)

Betty Cinq-Mars

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on April 25, 1994, Claimant Elizabeth I. Schlagel, who appeared Pro Se, alleged that Respondent Betty Cinq-Mars sold her an unsuitable investment. Claimant further alleged that on January 7, 1991 she contacted Respondent, her broker at Merrill Lynch, Pierce, Fenner and Smith, Inc. about investing the money from a CD which was maturing. Claimant contended that Respondent's only suggestion was an investment in the Merrill Lynch Short Term Global Fund, and accordingly Claimant invested in the fund. Claimant contended that Respondent assured her she could lose no more than 5% but when she sold the fund on February 25, 1994, she realized a greater loss for which Respondent should be held liable.

Respondent, Betty Cinq-Mars through her representative, Christopher D. Cavuoti, in-house counsel for Merrill Lynch, Pierce, Fenner and Smith, Inc., maintained that Claimant's investment objective was intermediate price appreciation and income. Claimant further maintained that the investment objective of the Fund is to seek to provide shareholders with as high a level of current income as is consistent with prudent investment management and is designed to seek yields between 150 to 200 basis points over those available on six-month CD's and less fluctuation in net asset value than a long-term global bond fund. Respondent contended that Claimant was informed of the Fund's objectives and risks and was mailed a prospectus. Respondent further contended that no guarantees were made regarding the Fund, and although the net asset value declined, on a total return basis Claimant's investment was profitable and therefore Respondent should not be held liable.

RELIEF REQUESTED

Claimant, Elizabeth I. Schlagel, requested \$7,278.00. in actual damages, but agreed to limit actual damages to \$4,778.00.

Respondent, Betty Cinq-Mars, requested that the claims of the Claimant be dismissed.

AWARD

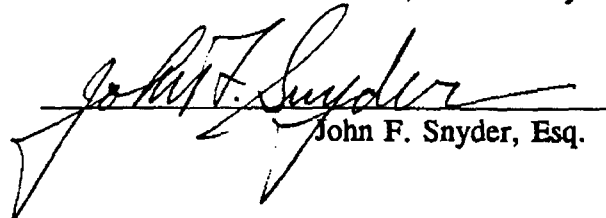
Pursuant to Section 13 of the NASD, Inc. Code of Arbitration Procedure, a single Public Arbitrator, John F. Snyder, Esq., was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on June 28, 1994 and by the Respondent on November 17, 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 Betty Cinq-Mars is liable and shall pay to Claimant Elizabeth I. Schlagel \$7,278.00 in actual damages.
2. The parties shall bear their respective costs.
3. The \$125.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant Elizabeth I. Schlagel, shall be retained by the NASD, Inc. Respondent Betty Cinq-Mars is liable and shall pay to Claimant \$125.00 as reimbursement of the filing fee, and shall also pay to the NASD \$25.00 to complete the filing fee payment of \$150.00.

AFFIRMATION

I, John, F. Snyder, 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.


John F. Snyder, Esq.

Date of Decision: April 20, 1995