

**N.A.S.D. AWARD**

**NATIONAL ASSOCIATION OF SECURITIES DEALERS**

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**In the Matter of the Arbitration Between**

**Name of Claimant(s)**

Anela Angeletti

94-05506

**Name of Respondent(s)**

Mutual Services Corp  
Bruce E. Winter

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**REPRESENTATION**

For Claimant: Myron S. Dunay, Esq. of Myron S. Dunay, P.A., Delray Beach, FL.

For Respondent: James M. Kaplan, Esq. of Wilson, Elser, Moskowitz, Edelman & Dicker, Miami, FL.

**CASE INFORMATION**

Statement of Claim filed: December 23, 1994. Claimant's Submission Agreement signed on: December 21, 1994.

Joint Statement of Answer filed by Respondents, Mutual Services Corporation ("Mutual") and Bruce E. Winter ("Winter"), on: March 1, 1995, and amended May 9, 1995. Mutual's Submission Agreement signed January 1, 1995, by Dennis S. Kaminski, and Winter's Submission Agreement was signed on March 10, 1995.

**HEARING INFORMATION**

On January 29 and 30, 1996, hearings lasting four sessions were conducted in Fort Lauderdale, Florida.

### **CASE SUMMARY**

Claimant alleged that the securities at issue (Century Properties Fund XX and Century Properties Growth Fund XXII) were unsuitable for her needs and investment objectives after having invested \$50,000.00 through Respondents in February 1985. Her Statement of Claim raised counts of breach of fiduciary duty, violations of Ch. 517 Fla. Stat., common law fraud, and negligence. Furthermore, Claimant alleged wrongdoing by Winter during 1989-1991 in the form of fraudulent concealment as to the values of the securities.

Respondents alleged that the investments at issue were ineligible for submission to arbitration under Section 15 of the NASD Code. Respondents denied all allegations of wrongdoing contained in the Statement of Claim and alleged that Claimant was fully advised of all risks inherent in the two investments at issue. Moreover, Respondents alleged that the investments were entirely suitable for Claimant at the time the investments were made considering her age, net worth, and investment objectives. Respondents raised the following as affirmative defenses: the statute of limitations, estoppel, waiver, contributory negligence, and laches.

### **RELIEF REQUESTED**

Claimant requested compensatory damages (\$50,000.00); interest on the consideration paid; punitive damages (\$50,000.00); attorney's fees; and costs of bringing the arbitration.

Respondents requested dismissal of the case, attorney's fees, costs, and such other relief the panel may, in its discretion, grant.

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

The parties agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award may be entered. In either case, the parties agreed to receive conformed copies of the Award while the originals remain on file with the NASD.

### **AWARD**

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

1. Respondents are found not liable and, therefore, all claims against them are hereby dismissed.

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2. This Panel has jurisdiction to consider and award attorney's fees pursuant to the implied agreement of the parties in their respective requests that this Panel award such fees. Respondents request for attorney's fees is granted in part. Claimant shall pay Respondents \$6,000.00 for attorney's fees.

**FORUM FEES**

1. Pursuant to Section 43(c) of the Code of Arbitration Procedure, the Panel has assessed Forum Fees in the amount of \$2,000.00 (4 sessions X \$500.00).

2. Claimant is hereby assessed \$2,000.00 less credit for the hearing session deposit of \$500.00 previously paid, leaving a balance in the amount of \$1,500.00. Fees are payable to the National Association of Securities Dealers, Inc.

\_\_\_\_\_/s/\_\_\_\_\_  
Lewis J. Levey, Esq.

\_\_\_\_\_/s/\_\_\_\_\_  
Janet C. Zwiebel

Public

\_\_\_\_\_/s/\_\_\_\_\_  
Carl J. Hegner

Industry

Date of Decision: 2/21/96