

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

---

In the Matter of the Arbitration Between

Name of Claimant

Yvonne Chaliwit

95-01773

Name of Respondents

Gary Goldberg & Co., Inc.  
Gary M. Goldberg

---

**CASE SUMMARY**

In a claim filed with the National Association of Securities Dealers, Inc. on April 11, 1995, Claimant Yvonne Chaliwit, who appeared Pro Se, alleged that Respondents Gary Goldberg & Co., Inc. and Gary M. Goldberg ("Goldberg"), recommended that she place her investment money in the following investments: a tax fee fund, Franklin Money Market, Putnam NY Tax Free Fund, Hartford Money Market and her IRA. Claimant further alleged that the Respondents made these recommendations after she informed Goldberg that she was intending to purchase a house with this money and therefore, wanted zero risk and access to the funds. Claimant contended that after she expressed concern about the risk aspect of the investments she was sent an acknowledgment form. Claimant further contended that she on two occasions she attempted to sell the investments but that the respondents were uncooperative and suggested that she gamble with the money a little longer. Claimant alleged that as a result of the above, she has suffered a loss for which the Respondents should be held liable.

Respondents Gary Goldberg & Co., Inc. and Gary M. Goldberg, through their representative, Vincent R. Coffey, of Deutsch and Frey, LLP, located in New York, NY, maintained that the Claimant had expressed to Goldberg that she wanted to invest only a portion of her money in a home at a later date. Respondents further maintained that they complied with the stated goals of the Claimant were not zero or no risk and which are demonstrated through a statement dated July 5, 1994, and through a signed "Investor Mutual Fund Acknowledgment" form. Respondents contended that the Claimant was always given a prospectus and that she has not lost any money in here portfolio. Respondents further contended that the Claimant accepted the risks of investing and that as a result of the above, they should not be held liable.

**RELIEF REQUESTED**

Claimant Yvonne Chaliwit, requested \$7,500.00 in actual damages.

Respondents Gary Goldberg & Co., Inc., and Gary M. Goldberg, 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, Richard W. Vallario, Esq., was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant Yvonne Chaliwit, on April 5, 1995, and not by the Respondents Gary Goldberg & Co., Inc. and Gary M. Goldberg, as required by Sections 12 and 13 of the NASD Code of Arbitration Procedure.

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. The claims of the Claimant Yvonne Chaliwit, against Respondents Gary Goldberg & Co., Inc. and Gary M. Goldberg, are dismissed in their entirety.
2. All other relief requests are denied.
3. The parties shall bear their respective costs.
4. The \$150.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant Yvonne Chaliwit, shall be retained by the NASD, Inc.

**AFFIRMATION**

I, RICHARD W. VALLARIO, 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.



Richard W. Vallario, Esq.

DATE OF DECISION: October 11, 1995