

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Cherie Zaretsky-Battaglia

95-01838

Name of Respondents

Dale Englehardt
Community Securities, Inc.

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on April 18, 1995, Claimant Cherie Zaretsky-Battaglia, who appeared Pro Se, alleged that Respondents Community Securities, Inc. ("CSI") and Dale Englehardt ("Englehardt"), recommended that she purchase shares of BT Alliance Short Term MMB Fund ("STMMB"), Alliance Strategy B ("ASB"), BT Alliance Strategy ("BTAS"), North American Fund B Fund ("NAFB") and BT North American B Fund ("BTNA"), which she did to her detriment. Claimant further alleged that she informed Englehardt that her investment goals were to have safe investments with high interest rates. Claimant contended that Englehardt told her that he would monitor her investments so she placed complete trust in him to invest her money. Claimant further contended that Englehardt purchased STMMB shares and exchanged those for ASB shares. Claimant alleged that the ASB shares were exchanged for BTAS shares which were exchanged for NAFB shares and the NAFB shares were ultimately exchanged for BTNA shares. Claimant alleged that the investment choices consistently lost value in part because Englehardt failed to advise her that interest rates were going up. Claimant further alleged that a significant value was lost in the NAFB fund because the Mexican peso was devalued. Claimant contended that the NAFB fund notified her of the peso devaluation upon which she sold her shares. Claimant further contended that Englehardt did not do his job as her investment advisor and that as a result of the above, she has suffered a loss for which the Respondents should be held liable.

Respondents Dale Englehardt and Community Securities, Inc., through their representative and counsel, Julie M. Lewis, of Harris Beach & Wilcox, located in Rochester, NY, maintained that a full range of investment alternative were discussed with the Claimant before any investment was made. Respondents further maintained that mutual fund discussions included information regarding share price fluctuation, current income and total return projections, expenses and costs, and prospectuses were provided at all times. Respondents contended that in June of 1991 the bulk of Claimant's money was placed in the Alliance mutual fund family. Respondents further contended that full information regarding a fund was provided to the Claimant before any transfer of money from one fund to another occurred. Respondents further contended that Claimant had success with the NAFB fund and insisted that all of her funds be

moved to NAFB but that Englehardt advised against it because of problems in the bond market. Respondents maintained that upon further insistence of the Claimant transferred all of her assets to NAFB in October of 1994. Respondents further maintained that the Mexican peso was devalued and that Englehardt advised against sale of the fund because he believed it would recover in value over time. Respondents contended that Claimant sold the NAFB shares against Englehardt's advice and that as a result of the above, they should not be held liable.

RELIEF REQUESTED

Claimant Cherie Zaretsky-Battaglia, requested \$6,423.12 in actual damages plus punitive damages, interest and costs.

Respondents Dale Englehardt and Community Securities, Inc., 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, David Buch, Esq., was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant Cherie Zaretsky-Battaglia, on May 11, 1995, and by Respondents Dale Englehardt and Community Securities, Inc., on August 10, 1995.

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 Cherie Zaretsky-Battaglia, against Respondents Dale Englehardt and Community Securities, Inc., are dismissed in their entirety.
2. The parties shall bear their respective costs.
3. The \$150.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant Cherie Zaretsky-Battaglia, shall be retained by the NASD, Inc.

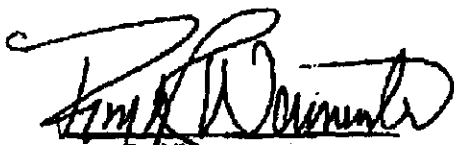
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Concurring Arbitrators' Signatures
Name

Robert Gleichenhaus, Esq.
Public Arbitrator - Chairperson


Roy R. Neumaier
Industry Arbitrator

Vincent J. Muffoletto
Public Arbitrator

I, Roy R. Neumaier, do hereby affirm that this is my decision in the above-captioned matter.



Executed on:
2/8/95

Date of Decision:

Date of Decision: September 8, 1995

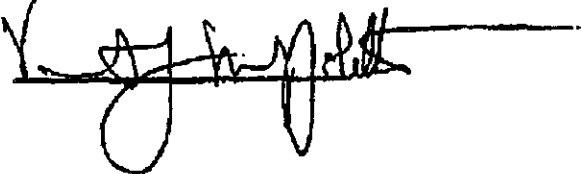
Concurring Arbitrators' Signatures
Name

Robert Gleichenhaus, Esq.
Public Arbitrator - Chairperson

Roy R. Neureuter
Industry Arbitrator


Vincent J. Muffoletto
Public Arbitrator

I, Vincent J. Muffoletto, do hereby affirm that this is my decision in the above-captioned matter.



Date of Decision: September 8, 1995

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AFFIRMATION

STATE OF NEW YORK

ss:

COUNTY OF ERIE

I, DAVID BUCH, 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.


Signature of Arbitrator

DATE OF DECISION: November 6, 1995