

## N.A.S.D. AWARD

## NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Name of Claimants

Richard M. and Patricia Belanger

vs.

Award No.  
9504666Name of RespondentsCorporate Securities Group  
David Matthew Murphy© National Association of  
Securities Dealers, Inc.

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REPRESENTATION

Claimants, Richard M. and Patricia Belanger (collectively "Claimants"), appeared pro se. Claimants, Richard M. and

Respondent, David Matthew Murphy ("Murphy"), appeared pro se.

Respondent, David Matthew

Respondent, Corporate Securities Group, Inc. ("CSG"), was represented by Gregory Tendrick, Esq., an corporate secu  
in-house attorney from Corporate Securities Group, inc. in-house attorney from CorpCASE INFORMATION

Statement of Claim was filed on September 29, 1995.

Claimant Belanger's Submission Agreement was signed on September 20, 1995.

Respondent CSG's Statement of Answer was filed on December 1, 1995.

Respondent CSG's Submission Agreement was signed on December 13, 1995.

Respondent Murphy's Statement of Answer was filed on November 14, 1995.

Respondent Murphy's Submission Agreement was signed on , November 13, 1995.

HEARING INFORMATION

Hearing Date/Session: July 18, 1996 - 1 session

The hearing session was held at the National Association of Securities Dealers, Inc. office in Boston, Massachusetts.

CASE SUMMARY-

Claimants alleged that both Murphy and CSG (collectively "Respondents") engaged in unethical practices by churning their account, advising them to purchase unsuitable securities, and failure to disclose relevant and appropriate information.

Claimants alleged that at all relevant time, Respondent Murphy was an employee at CSG. Claimants also alleged that Murphy solicited them to purchase 2000 shares of Innovet stock at 2 3/4. Claimants further alleged that Innovet stock started to go down immediately after their October 20, 1992 purchase.

Claimants asserted that after Innovet stock plunged, Murphy called them numerous times and convinced them to purchase an additional 2000 shares of Innovet stock at 1 7/8 on November 6, 1992 and 1000 shares of Rail America for \$7000.00 on November 9, 1992. Claimants further asserted that they believed that Rail America was a new issue and Murphy failed to provide them with a prospectus. Claimants further asserted that on December 10, 1992 Murphy advised them to sell Rail America on for \$7,586.50 and use the proceeds to buy shares in Health Images for \$8,844.50.

Belanger further alleged that Murphy later advised them to sell Health Images on for \$9570.50 and use the proceeds to buy Boca Raton Capital Corp. ("Boca Raton") for \$9,638.06. Claimants contended that Murphy neglected to tell them that Boca Raton just had a reverse split and that it would have another one within a month in addition to becoming unlisted. Belanger also alleged that Murphy tried to cover up the above by reassuring them that the reverse split was due to a change in the accounting systems.

Claimants maintain asserted that Murphy convinced them sell Innovet on at a loss of \$2354.00 in order to buy Peachtree Fiberoptics ("Peachtree") for \$6,023.50 and told them that he would repurchase Innovet later when it started going up again. Claimants further asserted that now she believed that Peachtree must have been a new issue which they were not told. Belanger further alleged that the value of Peachtree stock declined immediately after their purchase and continued plunging until January 1994 when it was no longer listed. In addition, Claimants alleged that Murphy concealed that Peachtree was in the process of filing bankruptcy.

Claimants contended that after Murphy left CSG in May, 1994, that they met with him in late 1994 in Florida. Belanger further contended that Murphy told them his reason for leaving CSG was that he could not handle the pressure of selling stocks like the aforementioned stocks to customers anymore.

Respondent Murphy denied the allegations of wrongdoing and denied liability. Respondent Murphy maintained that by using the Looper Method for assessing asset turnover, the ratio of Claimants' account was 1:58 which falls significantly below 4:1, the level necessary to establish the minimal presumption of churning. Murphy also maintained that he did not execute transactions which were inappropriate or unsuitable to Claimants especially since Claimants were seeking speculative stocks as they stated in the Statement of Claim. Murphy further maintained that it was unreasonable to accuse him of misrepresentation of Boca Raton because the changes in the NASD rules over the past few years precludes assuming negative implications from reverse stock splits. In addition, Murphy maintained that it was unfair and unrealistic to hold him responsible for the bankruptcy of Boca Raton since he did not have access to propriety information regarding Boca Raton's strategic corporate planning without violating insider information rules.

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Murphy contended that Belanger misstated the fact of his change of employment. Murphy contended that his change of employment was not due to unethical sale pressure but was due to disagreement and dissatisfaction of products quality in CSG.

Respondent CSG maintained that it does not have any full-time employees but only has independent brokers acting as independent contractors. CSG denied that it sold unsuitable securities to Belanger and maintained that Claimants are sophisticated investor since Patricia Belanger is a registered securities broker with licenses in Series 6, 63, and 26.

### **RELIEF REQUESTED**

Claimant Claimants requested a compensatory award of \$20,844.00 which includes \$15,661.00 of their original investment and 10% per annum interest for three years.

Respondent Murphy requested the case be dismissed by its entirety.

Respondent CSG requested the case be dismissed by its entirety and that it be reimbursed for reasonable attorney's fees.

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

The parties have 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 have agreed to receive conformed copies of the Award while the originals remain on file with the NASD.

Respondent CSG and Claimant Belanger entered into a settlement agreement on June 25, 1995, prior to the hearing of this case.

### **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. Respondent Murphy is liable and shall pay Claimant Belanger \$2,500.00 (Two Thousand, Five Hundred Dollars and Zero Cents) as compensatory and actual damages.
2. The claim for interest is denied.
2. Each party shall bear their own attorney's costs and fees.

### **FORUM FEES**

Pursuant to Section 43(c) of the *Code of Arbitration Procedure*, the arbitrator have determined that the NASD shall retain the \$100.00 non-refundable filing fee previously deposited by Claimant and have assessed the following forum fees:

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1 hearing session X \$300.00 per session	=	\$300.00
minus Claimant's \$300.00 deposit	=	<u>\$300.00</u>
Total Outstanding Balance	=	0.00

Claimant be and is hereby liable for the sum of \$150.00 representing the total amount of forum fees assessed. Claimant previously deposited \$300.00 with the NASD. Therefore, nothing is owed to the NASD by the Claimant.

Respondent Murphy be and is hereby liable for the sum of \$150.00, representing the total amount of forum fees assessed, and shall satisfy this assessment by reimbursing Claimant \$150.00.

Sole Public Arbitrator

*Susan L. Donegan*  
Susan L. Donegan, Esq.

NASD's Date of Decision: August 22, 1996