

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

Elizabeth Alvarado c/f Ashleigh Schroeck

95-05069

Name of Respondent

Commonwealth Associates

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on October 25, 1995, Claimant Elizabeth Alvarado c/f Ashleigh Schroeck ("Claimant"), who appeared Pro Se, alleged that Respondent Commonwealth Associates ("Respondent"), through its representative Steven Thomas ("Thomas"), contacted her in September of 1993 and convinced her to use all of her money to purchase 450 shares of Jackpot Enterprises ("Jackpot"). Claimant further alleged that shortly after the purchase the price dropped so in January of 1994 she told Thomas to sell the stock and return her money. Claimant contended that Thomas took the proceeds and made an unauthorized purchase of 375 shares of Lottery Enterprises. Claimant further contended that she complained to Thomas about this transaction to which he responded "trust me." Claimant alleged that Thomas refused to follow her instructions to sell the stock and that in June of 1994 he informed her he was leaving the brokerage business. Claimant further alleged that Thomas told her not to trust the Respondent because it was in the business of 'stealing people's money'. Claimant provided a letter from Irving E. Trager, Respondent's Compliance Officer, dated September 12, 1995, in which Respondent expressed that Claimant brought her complaint over two years after the incident and that the time lapse limited its ability to adequately investigate the matter so it presumed the trade was authorized. Claimant contended that as a result of the above, she has suffered a loss for which the Respondent should be held liable.

Respondent Commonwealth Associates, failed to file a Statement of Answer to the Statement of Claim.

RELIEF REQUESTED

Claimant Elizabeth Alvarado c/f Ashleigh Schroeck, requested \$7,844.50 in actual damages.

Respondent Commonwealth Associates, failed to file a Statement of Answer to the Statement of Claim.

OTHER ISSUES CONSIDERED AND DECIDED

In accordance with Section 13 of the NASD Code of Arbitration Procedure, the Respondent Commonwealth Associates was served with the Statement of Claim through regular mail and was given

an opportunity to respond which it failed to do. In addition, an overdue answer notice and the notice of the identity of the arbitrator were sent certified mail and the signature card was returned signed and is on file at the NASD.

Pursuant to the by-laws of the NASD, the arbitrator determined that Respondent Commonwealth Associates, has notice of the claim, and is required to submit to this arbitration proceeding, and is, therefore, bound by the arbitrator's ruling and determination.

AWARD

Pursuant to Section 13 of the NASD, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Sheldon M. Finkelstein, Esq., was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant Elizabeth Alvarado c/f Ashleigh Schroeck, on October 5, 1995, and not by the Respondent as is 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 Respondent Commonwealth Associates, is liable and shall pay to the Claimant Elizabeth Alvarado c/f Ashleigh Schroeck, \$7,469.50 in actual damages.
2. The Respondent Commonwealth Associates, is liable and shall pay to the Claimant Elizabeth Alvarado c/f Ashleigh Schroeck, simple interest at the rate of 6% per annum from September 20, 1993 to date of payment of the award.
3. The \$150.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant Elizabeth Alvarado c/f Ashleigh Schroeck, shall, be retained by the NASD, Inc. The Respondent Commonwealth Associates, is liable and shall pay to the Claimant Elizabeth Alvarado c/f Ashleigh Schroeck, \$150.00 as reimbursement of the filing fee.

AFFIRMATION

I, SHELDON M. FINKELSTEIN, ESQ., do hereby affirm upon my oath that I am the individual described herein and who executed this instrument, which is my oath and award.


Sheldon M. Finkelstein, Esq.

DATE OF DECISION: March 28, 1996