

N.A.S.D. REGULATION AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between.

Name of Claimant

Cynthia S. Surgent

96-05103

Name of Respondent

Laidlaw Equities, Inc.

CASE SUMMARY

In a case filed with the National Association of Securities Dealers Regulation, Inc. on November 15, 1996, claimant Cynthia Surgent ("claimant"), who appeared Pro Se, alleged that respondent Laidlaw Equities, Inc. ("Laidlaw") was negligent in not timely forwarding her claim form on a class action suit. Claimant further alleged that she owned \$35,000.00 of Ellicott School Authority Bonds ("ESA"). Claimant also alleged that she received notice that a class action proceeding had been initiated on behalf of the bondholders against the broker-dealer that underwrote the bonds and that a settlement of the class action had been reached. Claimant asserted that she received the claim forms in July 1994, and the instructions required her to have her signature on the claim form guaranteed. Claimant further asserted that her account representative at Laidlaw, Ralph Ferrara ("Ferrara"), told her to fill out the claim form, sign it and forward it to him. Claimant also asserted that she filled out the form and mailed to ESA in July 1994. Claimant contended that sometime after her conversation with Ferrara, he left Laidlaw to work someplace else. Claimant further contended that since the forms were not returned to her, she assumed that her signature was guaranteed and the forms had been mailed.

Claimant also contended that in late October 1994, she received a letter from the administrators of the settlement fund stating that it had not yet received her claim form. Claimant alleged that she immediately mailed the letter to her new assigned account representative Peter Ahrens ("Ahrens"), to notify him that her claim form needed to be forwarded before the November 15, 1994 deadline. Claimant further alleged that she heard nothing further on this matter until August 1995, when the administrators of the settlement fund told her that her claim form had just been received, that her claim would have to be rejected as untimely, and that all of the settlement proceeds had already been discharged.

Respondent Laidlaw through its representative and Director of Compliance Robert Delaplain, maintained that Ferrara terminated his employment with Laidlaw on August 24, 1994, and there is no record of Ferrara's discussion with claimant on the subject nor has she provided any proof. Respondent further maintained that it has no record of receiving the forms from claimant that she mailed to Ferrara during July 1994. Respondent also maintained that claimant states that the administrators of the fund mailed her a letter in late October to claimant's Summitt Drive address, which Laidlaw believes was her old address. Respondent contended that it seems highly unlikely that claimant received the notice in late October 1994, especially since it was mailed to her old address. Respondent further contended Ahrens claims to have never received any documents nor had any conversation with claimant regarding ESA. Respondent

also contended that upon receiving the October 27th, letter claimant should have been aware that the administrators did not receive the claim she allegedly sent to Ferrara during July 1994 and subsequently should have notified or expressed concern that Laidlaw had not properly completed the July request and therefore, should immediately comply with the October request.

Respondent maintained the John Goohs ("Goohs"), who guaranteed claimant's signature on the claim, recalls claimant having requested the signature guarantee after the completion of the re-registering of the Disney stock for her daughter. Respondent further maintained that it had requested additional information to transfer the Disney certificate in July 1994, for which claimant did not respond until May 1995. Respondent also maintained that this 10 month period is consistent with claimant's delay in handling the ESA matter. Respondent contended that Goohs simply guaranteed claimant's signature, not the date, and promptly mailed it in the attorney's envelope in August 1995. Respondent further contended that knowing the time involved it is unreasonable to believe that claimant would request a change to her account and not make any mention of the pending class action settlement. Respondent also contended that claimant neglected to respond in a timely manner and it was through her own negligence and irresponsibility that she missed the filing deadline.

RELIEF REQUESTED

Claimant Cynthia Surgent requested \$10,000.00 in damages.

Respondent Laidlaw requested that the claims of claimant be dismissed in their entirety.

AWARD

Pursuant to Rule 10302 of the Code of Arbitration Procedure, a single Public Arbitrator, James Eichberg, was selected to review the matter in controversy between the parties set forth in Submissions to Arbitration signed by claimant Cynthia Surgent on November 8, 1996, and by respondent Laidlaw on December 30, 1996 as required by Rules 10301 and 10302 of the Code of Arbitration Procedure.

And, the Arbitrator, having considered the proof of the parties, had decided and determined in full and final resolution of the issues submitted for determination as follows:

1. Respondent Laidlaw Equities, Inc. be and hereby are liable and shall pay claimant the sum of \$6,500.00 in damages.
2. The \$150.00 filing fee previously deposited by claimant shall be retained by NASD Regulation, Inc.

AFFIRMATION

I, **James Eichberg**, do hereby affirm upon my oath as arbitrator that I am the individual described herein who executed this instrument, which is my oath and award.


James B. Eichberg

Date of Decision: April 30, 1997