

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

Barbara Stravitz
Steven Stravitz
Paul Stravitz
Susan Stravitz
Andrew Stravitz

92-00263

Name of Respondents

Gary Goldberg & Company, Inc.
Gary M. Goldberg

REPRESENTATION

For Claimants Barbara Stravitz, Steven Stravitz, Paul Stravitz, Susan Stravitz, and Andrew Stravitz ("Claimants"): William A. DeLorenzo, a sole practitioner.

For Respondents: Gary Goldberg & Company, Inc. ("GG") and Gary M. Goldberg ("Goldberg"): Stephen G. Rinehart, of Parker Chapin et al.

CASE INFORMATION

Claimants' Statements of Claim filed: January 23, 1992

Claimants' Barbara Stravitz, Andrew Stravitz, and Paul Stravitz's Submission Agreements signed on: December 6, 1991.

Claimant Susan Stravitz's Submission Agreement signed on: December 7, 1991.

Claimant Steven Stravitz's Submission Agreement signed on: January 11, 1992.

Joint Statement of Answer filed by Respondents on: April 3, 1992.

As required, pursuant to Section 25 of the Code of Arbitration Procedure ("Code"), Respondents did not file submission agreements.

HEARING INFORMATION

Pre-Hearing Conference:

December 22, 1992/1 session/1 arbitrator

AWARD
#92-00263
Page two

Hearing Dates/Sessions: March 4, 1993/2 sessions/3 arbitrators
 March 5, 1993/2 sessions/3 arbitrators
 March 18, 1993/1 session/3 arbitrators

Hearing Location: NASD, New York, NY.

CASE SUMMARY

Claimant Barbara Stravitz alleged she was a housewife at the time she invested with Respondents. She alleged Goldberg spoke of performance and track record as criteria in choosing an investment. Claimant alleged she stressed safety and liquidity as her and her husband's income was limited. Claimant alleged Goldberg explained their investments would be as safe as C.D.s and then liquidated their present holdings to make discretionary trades with him. Claimant alleged they signed blank forms authorizing agreement, to be filled in by his staff at a later time. Claimant alleged the trades were unsuitable for she and her family.

Claimant alleged Goldberg stressed the reliability of the companies he proposed, including P.L.M. Equipment Growth Fund II limited partnership and V.M.S. Mortgage Investment fund ("V.M.S."), and never mentioned the loss potential or that prospectuses on these companies would first be forthcoming. Claimant alleged the investments were tied to the stock market, negating the original agreement. Claimant alleged none of the investments followed the companies' stated objectives, which included preserving and protecting the partnership's investment capital, providing monthly cash distributions and preserving investor capital contributions.

Claimant alleged Goldberg screened calls to his office and had his office manager "make light" of Claimants' financial losses. Claimant alleged they were cut off from newsletters and progress reports regarding their investments.

Claimant Paul Stravitz alleged he was a middle manager employee at the time he invested with Respondents and that he had saved his earnings for retirement through I.R.A. investments. Claimant alleged Goldberg's proposal was a real estate investment program with multiple mortgage and real estate strategies which were structured to take advantage of opportunities created by the changing financial markets. Claimant alleged the stated objectives of the investment included maximizing income and that investor capital contributions would be preserved through capital guarantees and secured loans. Claimant further alleged the investment did not meet any of the guarantees, nor the stated objectives as a conservative investment to

AWARD
#92-00263
Page three

secure this I.R.A. Account.

Claimants Steven Stravitz, Susan Stravitz and Andrew Stravitz alleged they were students at the time they invested with Respondents. Claimants alleged they wanted secure investments for their future. Claimants alleged Goldberg proposed a real estate investment partnership as a safe way to invest in real estate. Claimants Steven Stravitz, Susan Stravitz and Andrew Stravitz alleged Goldberg and his associates did not disclose any of the risks. Claimants Steven Stravitz, Susan Stravitz and Andrew Stravitz alleged this program was inappropriate for their financial situation.

Respondents denied that the investments were unsuitable and asserted that Claimants admitted the objectives of the investments were to preserve investors' capital and pay high current distributions. Respondents further asserted Claimants improperly sought to make them guarantors of the ultimate performance of these investments. Respondents maintained the accounts were not discretionary and that all investments were approved by Claimants prior to purchase. Respondents asserted the investments were not "tied to the stock market".

Respondents maintained that when Claimants came to GG for investment advice they advised Goldberg they enjoyed speculating in stocks; had experience in margin trading; owned bonds; and were interested in investing in real estate. Finally, Respondents alleged Goldberg's recommendations were suitable for Claimants.

RELIEF REQUESTED

Claimants requested: an abrogation of all unsuitable purchases initiated by Respondents in their accounts from June 1987 through November 1988; actual damages in the amount of \$58,500.00, plus interest at the rate of nine (9%) percent per annum; attorneys' fees; and the reimbursement of the filing fee deposited by Claimants with the NASD.

Respondents requested: the arbitration panel dismiss the claims; costs; and attorneys' 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.

Pursuant to the bylaws of the NASD, the arbitration panel determined that Respondents were required to submit to this arbitration and, therefore, were bound by this panel's rulings and

AWARD
#92-00263
Page four

determinations.

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. The claims of the Claimants Barbara Stravitz, Steven Stravitz, Paul Stravitz, Susan Stravitz and Andrew Stravitz are denied:
2. All other claims are denied:
3. Each party shall bear its own expenses, including attorneys' fees.

OTHER COSTS

1. The arbitration panel has determined that Claimants are hereby liable and shall pay the sum of \$500.00 to represent the postponement fee for the postponement requested by Claimants and granted by this arbitration panel regarding the hearing scheduled for December 17, 1992.

FORUM FEES

Pursuant to Section 43c of the Code of Arbitration Procedure, the NASD shall retain the \$150.00 non-refundable filing fee previously paid by Claimants and the following Forum Fees are assessed.

1 pre-hearing conference session X \$300.00 = net \$300.00 due.
5 sessions X \$500.00 = \$2,500.00 minus hearing session deposit of \$500.00 = net \$2,000.00 due.

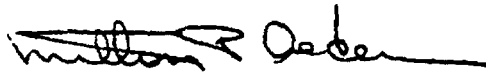
Forum fees Assessed Against:

1. Claimants are hereby liable in the amount of \$1,150.00. However, the NASD shall retain the \$500.00 hearing session deposit previously deposited by Claimants; therefore, the amount due and owing to the NASD equals \$650.00;
2. Respondents are hereby liable and shall pay to the NASD the sum of \$1,150.00.

AWARD
#92-00263
Page five

Fees are payable to the National Association of Securities Dealers, Inc.

Arbitrator Signature

A handwritten signature in black ink, appearing to read "Milton Aeder", written over a horizontal line.

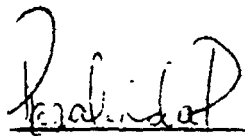
Milton Aeder/Industry Arbitrator

Date of Decision: April 29, 1993

STATE OF

COUNTY OF

On this 14th day of April, 1993, before me personally appeared Milton Aeder known and known to me to be the individual described in and who executed the foregoing instrument and be duly acknowledged to me that he executed the same.

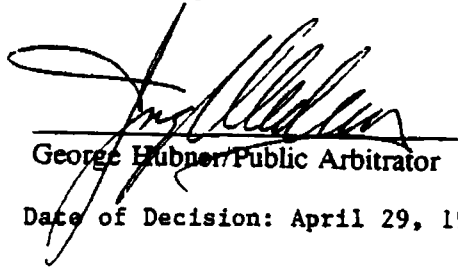


NOTARY PUBLIC
BY APPOINTMENT OF THE STATE OF TEXAS

WARD
#92-00263
Page five

Fees are payable to the National Association of Securities Dealers, Inc.

Arbitrator Signature

A handwritten signature in black ink, appearing to read "George Hubner", is written over a horizontal line.

George Hubner Public Arbitrator

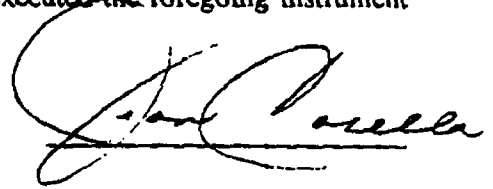
Date of Decision: April 29, 1993

STATE OF

COUNTY OF

New York
Nassau

On this *26* day of *April*, 1993, before me personally appeared George Hubner known and known to me to be the individual described in and who executed the foregoing instrument and be duly acknowledged to me that he executed the same.

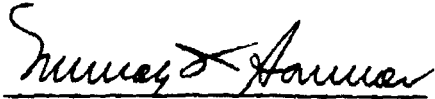


JEAN CASELLA
Notary Public, State of New York
No. 4863038
Qualified in Nassau County
Commission Expires June 23, 1994

AWARD
#92-00263
Page five

Fees are payable to the National Association of Securities Dealers, Inc.

Arbitrator Signature

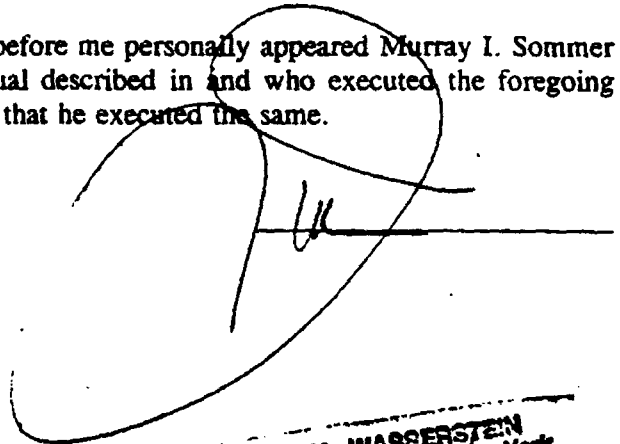
A handwritten signature in cursive script, appearing to read "Murray I. Sommer", is written over a horizontal line.

Murray I. Sommer/Public Arbitrator

Date of Decision: April 29, 1993

STATE OF *New York*
COUNTY OF *New York*

On this *21st* day of *March*, 1993, before me personally appeared Murray I. Sommer known and known to me to be the individual described in and who executed the foregoing instrument and be duly acknowledged to me that he executed the same.

A large, stylized handwritten signature, likely of the notary, is written over a horizontal line.

JULIUS M. WASSERSTEIN
Notary Public, State of New York
No. 43-479814
Qualified in *Richmond* County
Commission Expires *March 30, 1995*