

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Name of Claimants

Michael & Mary Sheehy

92-00454

Name of Respondents

Zoch & Zoch Associates Inc.  
Zoch & Zoch Financial Group Inc.  
Donald B. Zoch  
Paul B. Zoch

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REPRESENTATION

For Claimants Michael and Mary Sheehy: Joel Bernstein, Esq. of Kantor Bernstein & Kantor.

For Respondents Zoch & Zoch Associates, Inc., Zoch and Zoch Financial Group, Inc., Donald B. Zoch, Paul B. Zoch and Peter Carollo: Lawrence Gelber, Esq. of Beigel & Sandler, Ltd.

CASE INFORMATION

Statement of Claim filed: February 3, 1992.

Claimants' Submission Agreement signed on: January 30, 1992.

Joint Statement of Answer and Motion to Dismiss filed by Respondents Zoch and Zoch Associates, Inc., Zoch and Zoch Financial Group, Inc., Donald Zoch, Paul Zoch and Peter Carollo on: March 30, 1992.

Respondent Zoch and Zoch Financial Group, Inc.'s Submission Agreement signed on: September 14, 1992.

Respondent Donald Zoch's Submission Agreement signed on: September 14, 1992.

Respondent Paul Zoch's Submission Agreement signed on: September 14, 1992.

Respondent Peter Carollo's Submission Agreement signed on: September 14, 1992.

Respondent Zoch and Zoch Associates, Inc. did not submit a Submission Agreement as required by the NASD Code of Arbitration Procedure.

The parties have stipulated that Respondent Zoch and Zoch Associates, Inc. would not be included in this proceeding.

#### HEARING INFORMATION

Pre-Hearing conference:	September 23, 1992
Hearing Dates/Sessions:	December 1, 1992 / Two Sessions
	December 2, 1992 / One Session
	December 9, 1992 / One Session
	December 10, 1992 / Two Sessions
	January 7, 1993 / Two Sessions
	February 12, 1993 / Two Sessions
	February 16, 1993 / Two Sessions
	February 22, 1993 / Two Sessions
	March 12, 1993 / Two Sessions
	March 29, 1993 / Two Sessions
	May 28, 1993 / Two Sessions
	July 26, 1993 / Two Sessions
	July 30, 1993 / Two Sessions

Hearing Location: NASD offices in New York, New York.

#### CASE SUMMARY

Claimants alleged that Respondent Carollo, employee of Respondent Zoch and Zoch Associates, Inc. and Zoch and Zoch Financial Group, Inc., was not registered to sell securities in New York State for the first seven months in which he dealt with Claimants. Claimants further alleged Respondent Carollo strongly recommended gas and oil limited partnerships as safe low risk investment vehicles

with excellent tax benefits and returns and he made false and misleading statements concerning the safety, quality and liquidity of his recommendations. Claimants further alleged Respondents failed to exercise reasonable care to diversify and balance Claimants' portfolio and instead, imprudently invested the bulk of Claimants' net worth in various limited partnerships which generated large commissions to Respondents but which were unsuitable and highly risky investments. Claimants further alleged that Respondent Zoch and Zoch Associates and Zoch and Zoch Financial Group, through their principals Respondent Paul Zoch and Donald Zoch disregarded their duty to supervise and failed to exercise due diligence in monitoring the activities of Respondent Carollo.

Respondents maintained each investment was suitable to Claimants' expressed goals and ardent life style and Claimants were presented with full disclosure of the potential risks and rewards of each investment. Respondents further maintained that the NASD lacks jurisdiction because these claims are barred by statute of limitations.

#### **RELIEF REQUESTED**

Claimants' requested \$390,614.58 in compensatory damages plus \$202,123.03 in interest and attorneys' fees.

Respondents requested all claims be dismissed and costs, expenses, and attorneys' fees.

#### **AWARD**

After considering the pleadings, the testimony and the evidence presented at the hearing and the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. Respondents' Motion to Dismiss on the basis of Statute of Limitations be and hereby is denied.
2. Respondents Zoch and Zoch Financial Group, Inc., Donald Zoch, Paul Zoch and Peter Carollo be and hereby are liable jointly and severally and shall pay Claimants the sum of \$71,568.00 inclusive of interest.
3. Each party shall bear their own costs including attorneys fees.

**FORUM FEES**

Pursuant to Section 43c of the Code of Arbitration Procedure, the following Forum Fees are assessed.

24 sessions x \$750.00 + 1 pre-hearing conference (\$300.00) =  
\$18,300.00 less \$1,050.00 hearing session deposit =  
\$17,250.00 net due.

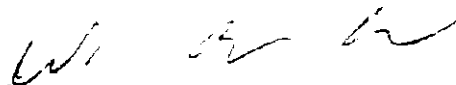
**Forum Fees Assessed Against:**

Respondents Zoch and Zoch Financial Group, Inc., Donald Zoch and Paul Zoch be and hereby are liable, jointly and severally and shall pay the NASD the sum of \$9,150.00 to represent forum fees.

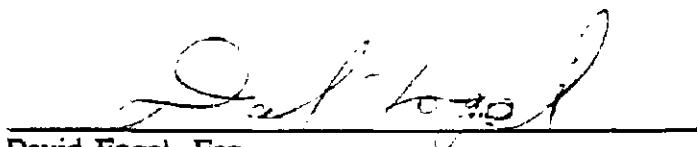
Claimants be and hereby are liable, jointly and severally and shall pay the NASD the sum of \$8,100.00 to represent forum fees.

The NASD shall retain the \$200.00 filing fee and \$1,050.00 hearing session deposit previously deposited by Claimant.

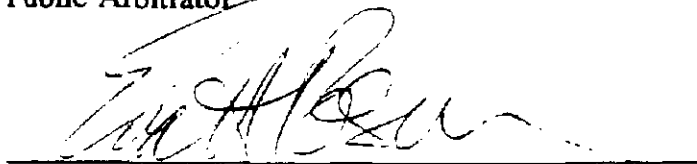
**ARBITRATORS' SIGNATURE**



W. Charles Robinson, Esq.  
Public Arbitrator



David Fogel, Esq.  
Public Arbitrator



Eva H. Posman, Esq.  
Industry Arbitrator

Date of Decision: August 25, 1993