

In the Matter of the Arbitration Between :
:
Hattie C. Geuser :
Myrtle G. and Philip A. Piccola :
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Claimants :
:
vs. :
:
Invest Financial Corporation :
Wayne Hodges :
:
:
Respondents :

CASE #92-00624
AWARD

In a claim filed with the National Association of Securities Dealers, Inc. on February 19, 1992, Claimants, Hattie C. Geuser, Myrtle G. and Philip A. Piccola who appeared Pro Se, alleged that in August 1989 Respondent, Wayne Hodges, a registered sales representative with Respondent Invest Financial Corporation recommended to Claimant, Myrtle Piccola the MFS Government High Yield Trust by promising a 10% rate of return and assuring her that no fees would be involved with the purchases. Claimants further alleged that Claimant Myrtle Piccola opened two joint accounts with Respondent Invest Financial Corporation, one account was a joint account for Claimants Hattie C. Geuser and Myrtle G. Piccola; mother and daughter and the other joint account was for Claimants Myrtle G. and Philip A. Piccola; wife and husband. Claimants contended that Respondent Wayne Hodges advised Claimant Myrtle G. Piccola that he would make a six month deposit for immediate use in the joint account of Claimants Hattie C. Geuser and Myrtle G. Piccola and leave the balance for six months before starting to write checks, all of this at 10% interest. Claimant further contended that in September 1989, Claimant Hattie C. Geuser passed away and Claimant Myrtle G. Piccola tried to close out their joint account, only to discover that Respondent Wayne Hodges failed to open the account as a joint account, at which time, Respondent Wayne Hodges admitted to the mistake and advised Claimant Myrtle G. Piccola that he would rectify it. Claimants asserted that Claimant Myrtle G. Piccola finally had to retain an attorney to intercede in order to close the account of Claimants Hattie C. Geuser and Myrtle G. Piccola. Claimants further asserted that in March 1990, Claimant Myrtle G. Piccola contacted Respondent Invest Financial Corp. in order to close all of Claimants accounts, only to learn

they had been charged a fee of 4.7% contrary to Respondent Wayne Hodges assurance of no fees. Claimants argued that Respondent Wayne Hodges inappropriate handling of their accounts along with his misleading information about the fees, in addition to Respondent Invest Financial Corp. failure to supervise, caused Claimants to incur losses due to fees, interest, and attorney's fees.

Respondents, Invest Financial Corp. and Wayne Hodges by and through their in-house counsel Eugene B. Harper, Esq., maintained that on August 24, 1989 Claimants Myrtle G. and Philip A. Piccola JTWR0S opened an account with Respondent Invest Financial Corp. and purchased \$2,696.10 in shares of the MFS Government Securities High Yield Trust whereby Claimants Myrtle G. and Philip A. Piccola signed an account application indicating that their investment objectives were balanced income and growth with an average risk factor. Respondents further maintained that Claimants Myrtle G. and Philip A. Piccola acknowledged that a prospectus was received and that the sales charge, yield rate and market fluctuation of the shares were explained to them. Respondents contended that on September 8, 1989 Claimants Hattie C. Geuser and Myrtle G. Piccola, POA JTWR0S opened an account with Respondent Invest Financial Corp. and purchased \$42,441.00 in shares of the MFS Government Securities High Yield Trust, in addition to \$18,600.00 CEF Money Market Portfolio whereby Claimants Hattie C. Geuser and Myrtle G. Piccola signed an account application indicating that their investment objective was income with an average risk factor. Respondents further contended that Claimants Hattie C. Geuser and Myrtle G. Piccola acknowledged that a prospectus was received and that the sales charge, yield rate and market fluctuation of the shares were explained to them. Respondents asserted that Claimants Hattie C. Geuser, Myrtle G. and Philip A. Piccola received monthly statements from Respondent's Invest Financial Corp., clearing firms and said statements indicated all transactions in the accounts. Respondents further asserted that at no time did Respondent Wayne Hodges ever advise Claimant Myrtle G. Piccola that the MFS Mutual Fund was a six month investment with a promised rate of return of 10% with no fees (sales charges) nor does the prospectus indicate as such. Respondents argued that they are not liable to Claimants because any claimed losses in Claimants account were not proximately caused by any wrongful act or conduct of Respondents.

RELIEF REQUESTED

Claimants, Hattie C. Geuser, Myrtle G. and Philip A. Piccola requested \$10,000.00 in actual damages plus interest at 10% per annum together with attorney's fees and costs.

Respondents, Invest Financial Corp. and Wayne Hodges requested the claim be dismissed and costs be assessed against Claimants.

AWARD

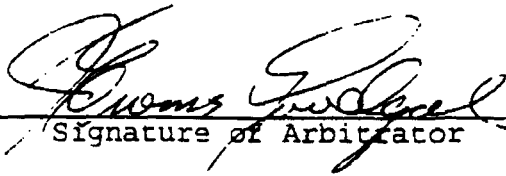
Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Jerome Goodgal, was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimants on February 12, 1992, by the Respondent, Invest Financial Corp. on April 24, 1992 and by the Respondent, Wayne Hodges on April 27, 1992.

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. Respondents, Invest Financial Corp. and Wayne Hodges are jointly and severally liable and shall pay to the Claimants, Hattie C. Geuser, Myrtle G. and Philip A. Piccola the sum of \$2,099.13 in damages.
2. Respondents, Invest Financial Corp. and Wayne Hodges are jointly and severally liable and shall pay to the Claimants, Hattie C. Geuser, Myrtle G. and Philip A. Piccola the sum of \$77.50 representing attorney's fees:
3. The parties shall bear their respective costs.
4. The \$150.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimants, Hattie C. Geuser, Myrtle G. and Philip A. Piccola shall be retained by the NASD, Inc. Respondents, Invest Financial Corp. and Wayne Hodges are jointly and severally liable and shall pay to the Claimants the sum of \$150.00 as reimbursement.

AFFIRMATION

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



Signature of Arbitrator

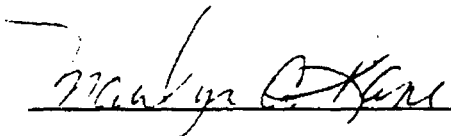
DATE OF DECISION: August 11, 1992

STATE OF: *New Jersey*

SS:

COUNTY OF: *Hudson*

On this 11th day of August 1992, before me personally appeared Jerome Goodgal to me known and known before me to be the individual described in and who executed the foregoing instrument and he duly acknowledged to me that he executed the same.



Notary Public

My Comm. Expires _____
Notary Public
State of New Jersey