

**NASD REGULATION, INC.
OFFICE OF DISPUTE RESOLUTION
ARBITRATION AWARD**

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NASD-ARBITRATION MEDIATION

NASD REGULATION, INC. - OFFICE OF DISPUTE RESOLUTION

In the matter of the Arbitration Between

Name of Claimants

Richard Weisinger and the Garrett Family Trust

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**NASD
S.F. ARBITRATION, Inc.
Office of Dispute Resolution
Arbitration No. 95-01220**

Name of Respondents

Gilbert Marshall & Co., Inc., Dena M. Halfacre, Thomas P. Meehan, Ted Spires, Kevin J. James, Paul Smith, Michael Usher, John Guyette

REPRESENTATION

For Claimants:

Ricki C. Ring, Esq.
Jay R. Stein, Esq.
Law Offices of Ricki C. Ring
Los Angeles, California

For Respondents Gilbert Marshall & Co., Inc.,
Michael Usher and John Guyette:

Don Wagner, Esq.
Wagner & Associates
Irvine, California

CASE INFORMATION

Statement of Claim filed: March 28, 1995

Amendment to Statement of Claim filed: September 25, 1995

Claimant's Submission Agreement signed: February 20, 1995

Respondent Gilbert Marshall & Company's
Statement of Answer filed: June 1, 1995

Respondent Dena Halfacre's Statement of Answer
filed: June 6, 1995

Respondent Kevin James' Statement of Answer filed: May 17, 1995

Respondent Ted Spires' Statement of Answer filed: September 13, 1996

HEARING INFORMATION

Pre-Hearing Conference Date / Session: August 21, 1996 (1 session)
September 13, 1996 (1 session)
November 1, 1996 (1 session)

Hearing Dates / Sessions: November 4, 1996 (2 sessions)
November 5, 1996 (2 sessions)
November 6, 1996 (2 sessions)
January 20, 1997 (2 sessions)
January 21, 1997 (2 sessions)
January 22, 1997 (2 sessions)

Hearing Location: Los Angeles, California

CASE SUMMARY

Claimants alleged that Respondents committed breach of contract, breach of fiduciary duty, violations of Sections 9(a)(3) and 9(a)(4) of the Securities Exchange Act of 1934, violations of Section 10b and Rule 10b-5 of the Securities Exchange Act of 1934, fraud, negligence, RICO violations, elder abuse, unsuitable recommendations and lack of supervision. Specifically, Claimants asserted that Respondents made numerous misrepresentations of material facts in order to induce Claimants to initially purchase and then postpone the sale of unsuitable securities.

Respondents denied Claimants' claims in their entirety.

RELIEF REQUESTED

Claimants sought rescission of their investments in Sky Stock, compensatory damages, as an alternative to rescission, in the amount of \$92,440.00 for Co-Claimant Weisinger and \$6,760.00 for Co-Claimant Garrett Family Trust, interest at the legal rate, treble damages under RICO in the amount of \$277,000.00 for Co-Claimant Weisinger and \$20,280.00 for Co-Claimant Garrett Family Trust, punitive damages in an amount to be determined by the arbitration panel, costs and attorneys' fees.

Respondents sought dismissal of Claimants' Statement of Claim in its entirety.

OTHER ISSUES CONSIDERED AND DECIDED

The parties have agreed that the Award in this matter may be executed in either 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 original remains on file with the NASD Regulation, Inc., Office of Dispute Resolution.

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. Claimant Richard Weisinger is awarded the sum of \$37,500.00 from Respondents Gilbert Marshall & Co. and Michael Usher, jointly and severally.
2. Claimant Garrett Family Trust is awarded the sum of \$1,000.00 from Respondents Gilbert Marshall & Co. and Michael Usher, jointly and severally.
3. Claimants Richard Weisinger and Garrett Family Trust shall recover nothing from Respondents Dena Halfacre, T. Patrick Meehan, Paul Smith, Ted Spires, Kevin James and John Guyette.
4. Each party shall bear its/his/her own costs including attorneys' fees.
5. Forum Fees shall be assessed one-half against Claimants and one-half against Respondents Gilbert Marshall & Co. and Michael Usher, jointly and severally.
6. Claimants' claim for punitive damages is denied in its entirety.
7. A majority of the Panel declines a finding that Respondents were engaged in fraudulent activity with respect to their dealings with Claimants.

OPINION OF CHAIRPERSON SCHOENBERG
CONCURRING IN PART, DISSENTING IN PART

1. While the Chairperson concurs in the findings of liability against Respondents Gilbert Marshall & Co. and Michael Usher, he would award Claimants additional compensatory damages and include an award of compensatory damages against Respondent Dena Halfacre and Respondent T. Patrick Meehan, save for the latter's current bankruptcy.

FORUM FEES

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the following forum fees are assessed:

Three (3) Pre-Hearing Conferences @ \$750.00/Session	= \$2,250.00
Twelve (12) Hearing Sessions @ \$750.00/Session	= \$9,000.00
Total Forum Fees Assessed	= \$11,250.00
Claimants' One-Half Share (jointly and severally)	= \$5,625.00
Claimants' Hearing Deposit Credit	= \$750.00
Claimants' Balance Due (jointly and severally)	= \$4,875.00
Respondents Gilbert Marshall & Co. and Michael Usher's One-Half Share	= \$5,625.00
Respondents Gilbert Marshall & Co. and Michael Ushers Balance Due (jointly and severally)	= \$5,625.00

Fees are payable to the NASD Regulation, Inc.

ARBITRATORS

<u>Name</u>	<u>Public / Industry</u>
Herbert M. Schoenberg, Esq.	Public Arbitrator
John P. McShane	Industry Arbitrator
Robert G. Sether	Public Arbitrator

Concurring Arbitrators' Signatures

Herbert M. Schoenberg, Esq.

John P. McShane

Robert G. Sether

Concurring in part and Dissenting in part

Herbert M. Schoenberg
Herbert M. Schoenberg, Esq.

Date of Decision: _____

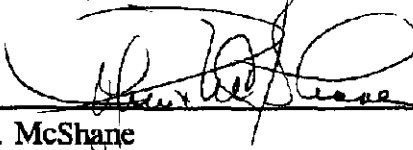
Date of Service: _____

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John P. McShane	Industry Arbitrator
Robert G. Sether	Public Arbitrator

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Herbert M. Schoenberg, Esq.



John P. McShane

Robert G. Sether

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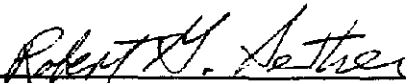
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