

NASD REGULATION, INC. AWARD

OFFICE OF DISPUTE RESOLUTION

In the Matter of the Arbitration Between

Name of Claimants

Max & Rita Hershey

96-00025

Name of Respondents

Reece E. Musick
Chemical Investment Services Corp.

REPRESENTATION

For Claimants Max and Rita Hershey ("Claimants") appeared Joseph Trotti, Esq., a solo practitioner located in Bayside, New York.

For Respondents Chemical Investment Services Corp. ("CIS"), and Reece E. Musick ("Musick") (collectively "Respondents") appeared Frank J. Cuccio, Esq. of Bressler, Amery & Ross located in Morristown, New Jersey.

CASE INFORMATION

Statement of Claim filed: January 3, 1996.

Claimant's Submission Agreement signed on: December 8, 1995

Joint Statement of Answer filed by Respondents, Musick and CIS on May 6, 1996.

Respondent, Musick's Submission Agreement signed on: May 9, 1996.

Respondent, CIS' Submission Agreement signed on: May 10, 1996.

HEARING INFORMATION

Pre-Hearing Conference: October 9, 1996 - One Session

Hearing Date/Sessions: July 14, 1996 - Two Sessions

The hearings were held in the offices of NASD Regulation, Inc., located in New York City, New York.

CASE SUMMARY

Claimants alleged that, they approached Musick in October 1993 intending to invest in safe securities, and on his recommendation, purchased shares of the GT Global Government Income Fund (the "Fund"), believing that their investment was not at risk. Claimants further alleged that within two months the

value of the fund declined. Accordingly, claimants alleged that they notified Musick to sell the investment. Claimants asserted that Musick was persistent in recommending the Fund and suggested that they buy more of it, which they did in November 1993, December 1993, and February 1994, representing a total investment of \$79,000.00. Claimants also alleged that, in March 1995, distrusting Musick's assurances that investment in the Fund was not risky, they sold the investment at a loss of \$27,867.59. Claimants asserted that, in recommending the stocks, and in subsequently advising claimants to keep the Fund and purchase additional shares, Musick breached his fiduciary duty. Claimants further asserted that CIS and Musick should be held accountable for misrepresentation and breach of duty.

Respondents deny the allegations in the Statement of Claim, and maintain that claimants were fully informed and aware of the potential risks, that the stock was not FDIC insured, and that income from the investment was not guaranteed. Respondents also maintained that claimants were aware of the market fluctuations due to the fact that they made several separate purchases of the Fund at various share prices.

Respondents also asserted that the Statement of Claim was barred by the Statute of Limitations; that claimants were estopped from asserting a recovery; that claimants ratified the transactions; that claimants have waived their rights to relief; that any damages sustained were not caused by respondents but were caused in whole or in part by claimants; that claimants damages, if any, were due to the acts or omissions of third parties over whom respondents had no control; that claimants are barred from recovery by their failure to mitigate damages and that claimants, may not, as a matter of law, recover punitive damages.

RELIEF REQUESTED

Claimants requested damages in the amount of \$27,876.59 and punitive damages in the amount of \$60,000.00.

Respondents requested that the claim be dismissed with prejudice and the cost of the proceeding be assessed against the claimants.

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 original remain on file with NASD Regulation, Inc.

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) Claimants' claim is dismissed in its entirety.
- (2) All other requests for relief are denied.

FORUM FEES

Pursuant to Rule 10332 of the Code of Arbitration Procedure, the arbitrators have determined that NASD Regulation, Inc. shall retain the \$150.00 non-refundable filing fee previously deposited by the Claimant and have assessed the following forum fees:

1 prehearing conference x \$300 = \$300.00.


2 hearing sessions x \$500 = \$1000.00.

Total = \$1300.00.

Claimants Max and Rita Hershey be and hereby are liable for the sum of \$1,500.00 representing the 100% of the total amount of forum fees assessed. Claimants previously deposited \$500.00 with NASD Regulation, Inc.; therefore, Claimants Max and Rita Hershey shall pay to NASD Regulation, Inc., the sum of \$800.00.

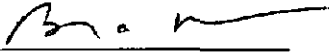
Fees are payable to the NASD Regulation, Inc.

Concurring Arbitrators' Signatures
Names



Barry A. Mahler, Esq.

I, Barry A. Mahler, do hereby affirm pursuant to Article 7507 of the Civil Practice Law and Rules that I am the individual described herein, and who have executed this instrument, which is my award.



Barry A. Mahler, Esq.

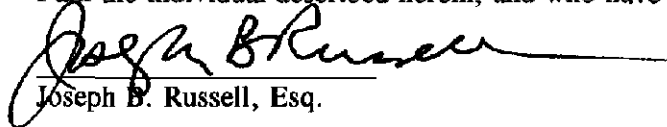
Date of Decision: August 7, 1997

Concurring Arbitrators' Signatures

Names


Joseph B. Russell, Esq.

I, Joseph B. Russell, do hereby affirm pursuant to Article 7507 of the Civil Practice Law and Rules that I am the individual described herein, and who have executed this instrument, which is my award.


Joseph B. Russell, Esq.

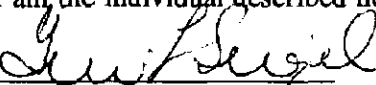
Date of Decision: August 7, 1997

Concurring Arbitrators' Signatures

Names


Gerri L. Seigel, Esq.

I, Gerri L. Seigel, do hereby affirm pursuant to Article 7507 of the Civil Practice Law and Rules that I am the individual described herein, and who have executed this instrument, which is my award.


Gerri L. Seigel, Esq.

Date of Decision: August 7, 1997