

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Marvin Deutsch

96-01405

Name of Respondents

APS Financial Corporation
Peter K. Aman

CASE SUMMARY

In a case filed with the National Association of Securities Dealers, Inc. on March 29, 1996, claimant Marvin Deutsch ("claimant"), who appeared Pro Se, alleged that respondents APS Financial Corporation ("APS") and Peter K. Aman ("Aman"), failed to disclose to that the municipal bond they sold him was from a bankrupt company. Claimant further alleged that on February 22, 1995, Aman telephoned him at home and offered to sell him the City of Hesperia (Cal) Special Tax Bond, Series 1992 A. Claimant also alleged Aman told him that the price was low due to the bad California real estate conditions, but that the bond, no doubt, would realize a capital gain as the real estate conditions in California improved. Claimant asserted that he accepted this unsolicited offer on March 2, 1995. Claimant further asserted that on February 15, 1996, he received a report from the Finance Department of City of Hesperia, California, stating that the owner of the property within the district was placed in Chapter 7 Bankruptcy, by the U.S. Bankruptcy Court Central District of California. Claimant also asserted that Aman never disclosed that the bond he was marketing was from a company that was bankrupt for two years. Claimant contended that he has invested in the securities market for nearly 40 years, and would have to be in a coma to have bought a security from a Chapter 7 bankrupt real estate company. Claimant further contended that he spoke with City of Hesperia officials, who confirmed that the Chapter 7 Bankruptcy was of common knowledge. Claimant also contended that since APS is not a discount broker or mere sales clerk, complete disclosure is required of APS by U.S. and Florida securities law. Claimant also contended that when Aman was unable to defend his fraudulent and deceitful practice, he referred him to APS Compliance Officer, John Lindquist. Claimant alleged that Lindquist told him that neither Aman nor APS knew that the company was bankrupt, therefore, APS would not be responsible for having sold the Bond. Claimant further alleged that he later spoke with George Conwell, APS Chief Executive Officer, who told him that APS would not rescind the transaction, because he bought a speculative bond, and must be responsible for what happened.

Respondents APS Financial Corporation ("APS") and Peter K. Aman ("Aman")(collectively referred to as "respondents"), though their representative and Compliance Officer John Lindquist, maintained that claimant opened an account with Aman on September 15, 1994. Respondents further maintained that claimant told Aman that he only wanted to be shown non-rated tax free municipal bonds paying 8% or better. Respondents also maintained that claimant was fully aware from the outset of all the risks associated with investing in high yield, non-rated municipal bonds versus the lower yielding, investment grade, municipal bonds. Respondents contended that claimant received with each purchase a letter that described the risks of investing in non-related securities, including limited information and liquidity. Respondents further contended that they purchased the bonds from another Broker/Dealer on February 22, 1995, the same day they were sold to claimant. Respondents also contended Aman shared with claimant all the information he knew at the time of the purchase. Respondents maintained that the first time APS knew about the bankruptcy was when the City of Hesperia notified all bondholders in a formal notice on February 9, 1996. Respondents further maintained that within the notice was a disclaimer which reserved that right of the City to decline to answer questions from individual bondholders. Respondents also maintained they doubt the City told claimant that the bankruptcy was of common knowledge since City Official's stated the notice on February 9, 1996, was the first notice about the Chapter 7 Bankruptcy. Respondents contended they made complete disclosure to claimant, including the disclosure that non-rated municipal bonds sometimes have limited information available, and that clients are advised to invest only a small percent of their liquid net worth in any one issue.

RELIEF REQUESTED

Claimant Marvin Deutsch requested \$7,600, in actual damages, plus any penalties that the arbitrator deems fair and just.

Respondents APS Financial Corporation and Peter K. Aman requested that the claim of the claimant be dismissed in its entirety.

AWARD

Pursuant to Section 13 of the NASD, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Brian G. Mooney, was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by claimant Marvin Deutsch on March 26, 1996, and by respondents APS Financial Corporation on May 13, 1996, and by Peter K. Aman on May 10, 1996.

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 AFS Financial Corporation and Peter K. Aman are jointly and severally liable and shall pay to the claimant Marvin Deutsch \$7,600.00, in actual damages.
2. Respondents APS Financial Corporation and Peter K. Aman are jointly and severally liable and shall pay to the claimant Marvin Deutsch \$962.97, representing an interest rate of 8% per annum for 1995, and a 10% per annum up until August 2, 1996.
3. Claimant Marvin Deutsch is liable and shall pay respondent APS Financial Corporation \$500.00, representing interest already received on the bond.
4. Claimant Marvin Deutsch upon payment of the award is order to return to respondent APS Financial Corporation the City of Hesperia (Cal) Special Tax Bond, Series 1992 A.
5. All other relief requests are denied.
6. The \$150.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the claimant Marvin Deutsch shall be retained by the NASD, Inc. Respondents APS Financial Corporation and Peter K. Aman are jointly and severally liable and shall pay to the claimant Marvin Deutsch \$150.00 as reimbursement of the filing fee.

AFFIRMATION

I, **BRIAN G. MOONEY**, 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.


Brian G. Mooney, Esq.

Date of Decision: August 27, 1996