

**OFFICE OF DISPUTE RESOLUTION**

In the Matter of the Arbitration Between

Name of Claimants

James and Dolores Cutia

96-02765

Name of Respondents

The Codrick Financial Group, Inc.  
Joseph Codrick

**REPRESENTATION**

For Claimants James and Dolores Cutia ("Claimants") appeared Terrence P. Tormey, Esq. of the firm Bethany Commons, located in Hazlet, New York.

Respondents Codrick Financial Group ("CFG") and Joseph Codrick ("Codrick") (collectively referred to as "Respondents") appeared pro se.

**CASE INFORMATION**

Statement of Claim filed: June 27, 1996.

Claimant's Submission Agreement signed on: June 24, 1996.

Joint Statement of Answer filed by Respondents on: September 28, 1996.

Respondent CFG Submission Agreement signed on: September 11, 1996.

**HEARING INFORMATION**

Hearing Dates/Sessions	April 15, 1997	-	Two Sessions
	July 16, 1997	-	Two Sessions

The hearings were held in Pittsburgh, Pennsylvania.

**CASE SUMMARY**

Claimants alleged that they had minimal investment experience and sought safe, low-risk investments. Claimants further alleged that, in the summer of 1988, they purchased shares of Datronics on Codrick's recommendation, which he claimed were AAA Bonds, but he failed to deliver a prospectus prior to the sale, or discuss commissions or the Limited Partnership they were actually buying. Claimants also alleged that initially the investment paid interest as Codrick had promised, and in 1991, they bought three

more high-income investments. Claimants asserted that in December 1991, Codrick called claimants to inform them that someone in Datronics had committed fraud which would have the effect of cutting claimants interest rate in half until the situation stabilized. Claimants further asserted that Codrick suggested that they change their lifestyle to absorb the losses. Claimants invested a total of \$149,500.00 in what Codrick led them to believe were bonds and, as a result, have lost \$131,190.00.

Respondents alleged that the claimants owned a substantial amount of real estate, owned and operated two restaurants, had a net worth of over \$1 million, and had purchased mutual funds from CFG prior to 1988. Respondents further maintained that claimants were well aware of what they were purchasing, and that the prospectus' for each investment were duly delivered prior to any sale. Respondents also maintained that the recommendation of Datronics was in response to claimants' request for a means of helping their son with a mortgage payment, and their need to produce nearly \$1,000 per month, but that he made no claims of the investments being guaranteed or low-risk. Respondents contended that the claimants were fully qualified for the LP investments, and that the Datronics investment worked well for years until it was discovered that the CEO of the company had been embezzling funds which lowered the return on the stock. Respondents further contended that he informed claimants immediately of the situation, and made recommendations on how they could minimize the impact of the unfortunate circumstances. Respondents also maintained that because claimant's son could not personally afford his mortgage, the impact of this loss on claimants was even greater. Respondents asserted that the claim does not mention claimants have received distributions totalling over \$90,645.93 to date, including interest, plus an ERISA Value of \$18,476.41 which adds up to \$109,122.34. Respondents contended that Phoenix and ICON partners currently yield 12% and 9% respectively, while Westin is petitioning to come out of chapter 11 and still holds title to the real estate. Respondents further contended that though the claimants alleged many rule violations against him, he had received no complaints from any of the 69 other clients whom he had also placed in Datronics, which was the focus of the claim.

#### **RELIEF REQUESTED**

Claimants requested \$131,190.00 plus 8% interest from the date of sale up to the hearing date. Claimants further requested an award of all filing and hearing fees against respondents.

Respondents requested that the claim be dismissed with prejudice. Respondents further requests an award of \$350.00 for arbitration fees, \$6,000.00 for legal fees and lost time, and any other relief deemed appropriate, and expunge this arbitration from the records of Joseph S. Codrick and The Codrick Financial Group.

#### **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 originals remain on file with the NASD.

The arbitration panel made the following rulings concerning respondent Codrick who did not file a Submission Agreement in this matter:

1. Pursuant to Rule 10101 of the NASD Code of Arbitration Procedure (the "Code"), the panel found subject matter jurisdiction over this entire controversy.

2. The panel found that respondent Codrick was an associated member of the NASD at the time this controversy arose. Consequently, the panel found personal jurisdiction over respondent pursuant to Rule 10301 of the Code.
3. In view of (2) above, the panel found that respondent Codrick was required to file with NASD Regulation a properly executed Submission Agreement pursuant to Rule 10314(b) of the Code. In this regard, the panel found that the Statement of Claim was properly served upon respondent Codrick, pursuant to Rule 10314(a) of the Code.

#### AWARD

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

1. The claims of claimants James and Dolores Cutia against respondents The Codrick Financial Group and Joseph Codrick are dismissed in their entirety.
2. The parties are to bear their respective costs and including attorney's fees.
3. 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 \$200.00 non-refundable filing fee previously deposited by the claimants and have assessed the following forum fees:

4 sessions x \$750.00	= \$3,000.00
minus claimants' \$750.00 deposit	= \$ 750.00
total outstanding	= \$2,250.00

Claimants James and Dolores Cutia be and hereby are liable and shall pay to NASD Regulation \$1,500.00 representing one-half of the forum fees assessed. Claimants previously deposited \$750.00 with NASD Regulation, therefore, Claimants James and Dolores Cutia shall pay to NASD Regulation, Inc. \$750.00 in satisfaction of forum fees.

Respondents Joseph Codrick and Codrick Financial Group, Inc. be and hereby are jointly and severally liable and shall pay to NASD Regulation, Inc. the sum of \$1,500.00 representing one-half of the forum fees assessed. Therefore, Joseph Codrick and Codrick Financial Group, Inc., shall pay to NASD Regulation, Inc. \$1,500.00 in satisfaction of outstanding forum fees.

The panel determined that NASD Regulation shall retain the \$350.00 previously deposited by respondent Codrick Financial Group, Inc. in satisfaction of the member surcharge levied under Rule 10333.

ARBITRATORS' SIGNATURES

I, Dennis E. Minni, Esq., do hereby swear or affirm that I am the individual described herein, and who executed this instrument which is my oath and award.

*Dennis E. Minni*

Dennis E. Minni, Esq.  
Public Chairperson

I, Merwyn R. Markel, do hereby swear or affirm that I am the individual described herein, and who executed this instrument which is my oath and award.

Merwyn R. Markel  
Public Arbitrator

I, Paul H. McKenna, do hereby swear or affirm that I am the individual described herein, and who executed this instrument which is my oath and award.

Paul H. McKenna  
Industry Arbitrator

Date of Decision: September 12, 1997

**ARBITRATORS' SIGNATURES**

I, Dennis E. Minni, Esq., do hereby swear or affirm that I am the individual described herein, and who executed this instrument which is my oath and award.

\_\_\_\_\_  
Dennis E. Minni, Esq.  
Public Chairperson

I, Merwyn R. Markel, do hereby swear or affirm that I am the individual described herein, and who executed this instrument which is my oath and award.

*Merwyn R. Markel*  
\_\_\_\_\_  
Merwyn R. Markel  
Public Arbitrator

I, Paul H. McKenna, do hereby swear or affirm that I am the individual described herein, and who executed this instrument which is my oath and award.

\_\_\_\_\_  
Paul H. McKenna  
Industry Arbitrator

Date of Decision: September 12, 1997

ARBITRATORS' SIGNATURES

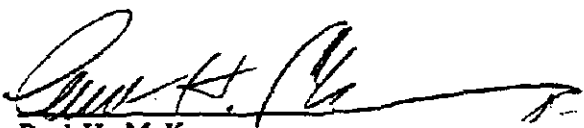
I, Dennis E. Minni, Esq., do hereby swear or affirm that I am the individual described herein, and who executed this instrument which is my oath and award.

Dennis E. Minni, Esq.  
Public Chairperson

I, Merwyn R. Markel, do hereby swear or affirm that I am the individual described herein, and who executed this instrument which is my oath and award.

Merwyn R. Markel  
Public Arbitrator

I, Paul H. McKenna, do hereby swear or affirm that I am the individual described herein, and who executed this instrument which is my oath and award.

  
Paul H. McKenna  
Industry Arbitrator

Date of Decision: September 12, 1997