

N.A.S.D. REGULATION AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS REGULATION, INC.

In the Matter of the Arbitration Between

Name of Claimants

Lorraine Ribaud
Thomas J. Pettenato
Michael Pettenato
The GSL Corporation

96-03595

Name of Respondents

Advest, Inc.
Michael Doherty

REPRESENTATION

For claimants Lorraine Ribaud ("Ribaud"), Thomas J. Pettenato ("T. Pettenato"), Michael Pettenato ("M. Pettenato"), and The GSL Corporation appeared their counsel and representative Andrew Schatz, Esq. of the law firm Schatz & Nobel, P.C. located in Hartford, Connecticut.

For respondents Advest, Inc. ("Advest") and Michael Doherty ("Doherty") appeared their representative Cynthia Feigin, Esq. of the law firm Davis, Scott, Weber & Edwards, P.C. located New York, New York.

CASE INFORMATION

Statement of Claim filed: August 20, 1996.

Claimant Ribaud's Submission Agreement signed on: July 22, 1996.

Claimant T. Pettenato's Submission Agreement signed on: September 9, 1996.

Claimant M. Pettenato's Submission Agreement signed on: September 6, 1996.

Claimant The GSL Corporation's Submission Agreement signed on: July 22, 1996.

Joint Statement of Answer filed by respondents on: November 13, 1996.

Respondent Doherty's Submission Agreement signed on: December 10, 1996.

Respondent Advest's Submission Agreement signed on: November 11, 1996.

HEARING INFORMATION

Hearing Dates/Sessions:	April 1, 1997	-	two sessions
	April 2, 1997	-	two sessions
	April 3, 1997	-	two sessions
	May 28, 1997	-	two sessions
	May 29, 1997	-	two sessions
	June 2, 1997	-	two sessions
	June 9, 1997	-	two sessions
	June 10, 1997	-	two sessions
	total sessions	-	sixteen sessions

The hearings were conducted at the office of the offices of the National Association of Securities Dealers Regulation, Inc. located at 125 Broad Street in New York, New York.

CASE SUMMARY

Claimants alleged that in October 1993, their securities accounts at Advest (collectively, the "Ribauda Related Accounts") were worth over \$700,000.00 and a little over one year later the accounts were virtually worthless. Claimants further alleged that the accounts lost value because respondents recommended that they purchase shares of Cott Beverage Corporation ("COTT") on margin although it was an extremely speculative and unsafe investment. Claimants also alleged that during this period, respondents were aware that Ribauda was experience tumultuous events in her personal life and was therefore unable to understand respondents recommendations or to make sound judgments.

Claimants contended that Doherty communicated solely with Ribauda regarding investments and that she expressed a desire for conservative investing and preservation of capital. Claimants also contended that in March 1993, Ribauda asked Doherty to review COTT and determine whether it would be a good investment. Claimants also contended that Doherty recommended that the stock be purchased and continued making this recommendation through 1995. Claimants asserted that several thousand shares were purchased for the accounts and by November of 1993, the accounts were dangerously over-concentrated with COTT shares. Claimants further asserted that by late 1994, COTT had dropped from \$30.00 per share to about \$10.00 and while the stock was declining in value, Doherty continued recommending additional purchases. Claimants also asserted that by September of 1994, the Ribauda Related accounts were essentially worthless because of the over-concentration of COTT shares. Claimants alleged that this concentration violated Ribauda's direction to keep her bond investments safe. Claimants further alleged that as a result of the above, they have suffered losses for which the respondents should be held liable.

Respondents maintained that they did not make any unsuitable recommendations to claimants. Respondents further maintained that Doherty did not solicit or recommend any of the COTT transactions. Respondents also maintained that Doherty, on several occasions, recommended to Ribaldo that she liquidate her position in COTT but that she refused even during the decline of the value of the stock.

Respondents contended that Ribaldo presented herself as a successful businesswoman and that her \$345,000.00 deposit in 1989 supported this information. Respondents further contended that in 1990, Ribaldo decided that she wanted to purchase stock, to be more aggressive in her investing, and opened a separate account to trade equities. Respondents also contended that Doherty did not research the company and did not provide his opinion on COTT but merely read news reports from his computer and left with Ribaldo the decision concerning purchasing the stock. Respondents asserted that Ribaldo purchased and sold COTT for a profit at first but later took heavy losses. Respondents also asserted that Ribaldo did not complain about the profit. Respondents further asserted that Doherty lowered his commission on the COTT trades because of the fact that the trades were unsolicited. Respondents maintained that during the decline in the stock, Ribaldo repeatedly placed more money in the account to address margin calls and that Doherty did not advise her to transfer bonds to cover the calls.

Respondents maintained that they did not have information regarding Ribaldo's allegedly fragile emotional state and did not know that she was incompetent to handle her accounts. Respondent further maintained that to the contrary, Ribaldo contacted Doherty in March of 1994 to discuss some errors in her profit and loss statement. Respondents also maintained that nothing related to this inquiry indicated that Ribaldo was suffering from a chaotic emotional state.

Respondents contended that as a result of the above, they should not be held liable.

RELIEF REQUESTED

Claimants requested compensatory damages in the amount of over \$1,000,000.00, as well as punitive damages, interest, costs, reasonable attorney's fees, and other such relief as is just and proper.

Respondents requested that the claims be dismissed in their entirety plus reimbursement for costs, and attorney's fees.

OTHER ISSUES CONSIDERED & DECIDED

The panel has made the following determination with respect to claimants' request to supplement the record contained in Mr. Schatz's letter of June 11, 1997:

- 1) The panel has considered and received in evidence as claimants' exhibit the Affidavit of Gloria Wall, dated June 11, 1997.

- 2) The panel has considered and treated as Post Hearing Briefs:
 - a) The Affidavit of Andrew M. Schatz, Esq., dated May 16, 1997;
 - b) The Letter of Andrew M. Schatz, Esq., dated June 11, 1997;
 - c) The Letter of Cynthia A. Feigin, Esq., dated June 16, 1997.

The panel had directed that no further materials may be submitted by either party.

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 NASD Regulation.

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. The claims of claimants Lorraine Ribaud, Thomas J. Pettenato, Michael Pettenato, The GSL Corporation against respondents Advest, Inc. and Michael Doherty are denied in their entirety.
2. The parties shall bear their respective attorney's fees and costs.
3. All other relief requests are denied.

FORUM FEES

Pursuant to Rule 10332(c) of the Code of Arbitration Procedure, the arbitrators have determined that NASD Regulation shall retain the \$250.00 non-refundable filing fee previously deposited by claimants and have assessed the following forum fees:

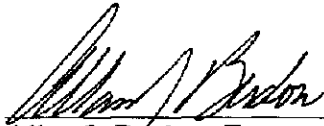
16 Sessions x \$1,000.00	= \$16,000.00
minus claimants' \$1,000.00 deposit	= <u>\$ 1,000.00</u>
total outstanding fees	= \$15,000.00

Claimant Lorraine Ribaud, Thomas J. Pettenato, Michael Pettenato, The GSL Corporation be and are hereby jointly and severally liable for the sum of \$8,000.00 representing one-half of the total amount of forum fees assessed. Claimants previously deposited \$1,000.00 with NASD Regulation. Therefore, claimants shall pay \$7,000.00 to NASD Regulation in satisfaction of outstanding forum fees.

Respondents Advest, Inc. and Michael Doherty be and hereby are jointly and severally liable for the sum of \$8,000.00 representing one-half of the total amount of forum fees assessed. Therefore, respondents shall pay \$8,000.00 to NASD Regulation in satisfaction of outstanding forum fees.

ARBITRATORS' SIGNATURES

I, Allan J. Berdon, Esq., do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein, and who executed this instrument which is my award.



Allan J. Berdon, Esq.
Public Chairperson

Date of Decision 7/10/97

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

Lincoln W. Craighead
Public Panelist

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

Roy D. Budd
Industry Panelist

Date of Decision:

ARBITRATORS' SIGNATURES

I, Allan J. Berdon, Esq., do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein, and who executed this instrument which is my award.

Allan J. Berdon, Esq.
Public Chairperson

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



Lincoln W. Craighead
Public Panelist

Date of Decision 7/10/97

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

Roy D. Budd
Industry Panelist

Date of Decision:

ARBITRATORS' SIGNATURES


I, Allan J. Berdon, Esq., do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein, and who executed this instrument which is my award.

Allan J. Berdon, Esq.
Public Chairperson

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

Lincoln W. Craighead
Public Panelist

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



Roy D. Budd
Industry Panelist

Date of Decision 7/10/97

Date of Decision: