

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between

Maxwell State Bank

Claimants

and

Westcap Government Securities, Inc.;
Malcolm Brown

Respondents

A W A R D
88-01170

CASE SUMMARY

Claimant, Maxwell State Bank ("Maxwell") sought damages from Westcap Government Securities, Inc. ("Westcap") and its' registered representative, Malcolm Brown ("Brown") (Westcap and Brown are collectively referred to herein as "Respondents") alleging that a \$1,000,000 government security acquired by Maxwell from Westcap was unsuitable in light of the particular needs and situation of the bank at the time of purchase, and other related claims.

Westcap denied Maxwell's claims and further asserted that Maxwell's claims should be barred by laches and delay.

RELIEF REQUESTED

Maxwell requested damages in the amount equal to the loss incurred by Maxwell on the sale of the bond, plus interest, attorneys' fees and costs. Westcap requested that all of the Claimants' claims be denied.

DAMAGES AND RELIEF REWARDED

On April 12, 1988, Maxwell filed its claim with the National Association of Securities Dealers, Inc. ("NASD") against the Respondents. On July 19 and 20, 1989 in Omaha, Nebraska, the undersigned arbitrators heard the controversy between the parties, in five sessions, as set forth in the submission to arbitration signed by Kim Fanning on behalf of Maxwell on May 19, 1988. The NASD received the executed submissions from the Respondents on July 14, 1988.

The arbitration panel, having considered the pleadings, the testimony, and the evidence presented at the hearing, has decided in full and final resolution of the issues submitted for determination as follows:

1. Each and every claim of Claimant is denied;
2. The parties shall each bear their respective costs including attorneys' fees; and
3. Pursuant to Section 43(b) of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall retain as forum fees the \$750.00 filing fee previously deposited with the NASD by Maxwell and Maxwell shall pay an additional \$500.00 in forum fees. Westcap shall pay \$1,250.00 in forum fees. All forum fees are payable to NASD, Inc. through its staff counsel.

Panel Members Concurring

Dated: August 9, 1989

/S/Thomas E. Johnson, Esq.
Chairman

Dated: August 8, 1989

/S/Joseph Soshnik

Panel Member Dissenting

Dated: August 9, 1989

/S/Bob Brewster, Esq.