

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of Arbitration Between
HOGAN & JEAN MATHEWSON
v.
THOMAS MULCAHY JR.
and ROBERT W. BAIRD & CO., INC.

NASD NO. 89-01157

CASE SUMMARY

In a Statement of Claim filed with the NASD on April 18, 1989, Claimants Hogan and Jean Mathewson ("Mathewsons") alleges that Respondents induced their investing retirement funds into an IRA account by misrepresenting that their original investment capital would not be reduced and that costs of investing would not be assessed against their capital; the investment was unsuitable because of their express requirement that the initial investment capital not be reduced; and no prospectus was received or shown to them prior to investing and until the losses has already occurred.

In a Statement of Answer filed with the NASD on July 19, 1989, Respondents Thomas L. Mulcahy, Jr. ("Mulcahy") and Robert W. Baird & Co., Inc. ("Baird") deny the allegations of wrongdoing and allege affirmatively that the claims are barred because the Mathewsons were aware of all material facts regarding the investments; the reduction of capital resulted from Claimants directions to withdraw more money than was being earned by the principal; the Mathewsons are barred by the Statute of Limitations; the Statement of Claim fails to state a claim upon which relief can be granted and the Mathewsons failed to mitigate any alleged damages.

RELIEF REQUESTED

Claimants request an award issue requiring the respondents to repay the losses in their respective accounts and make the funds available to them.

Respondents request that the claim be denied and that Respondents be awarded their costs.

AWARD

On July 13, 1990, in Milwaukee, Wisconsin during a hearing lasting 2 sessions, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed on April 12, 1989 by Claimants Hogan E. Mathewson and Jean M. Mathewson on June 8, 1989 by Glen F. Hackman on behalf of Respondent Robert W. Baird & Co., Inc. and on June 7, 1989 by Respondent Thomas L. Mulcahy, Jr.

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. The investments which were the subject of the Statement of Claim shall be rescinded as follows:

a. Claimant Hogan Mathewson shall transfer and assign to Respondent Robert W. Baird & Co., Inc. all his interest in the 3788 shares of Putnam High Income Government Trust, the 10,000 shares of the USX Corp Inter Tern NT Ser. A, and the Money Market Account represented by the People's Heritage S & L CD.

b. Claimant Jean Mathewson shall transfer and assign to Respondent Robert W. Baird & Co., Inc. all her interest in the 1,748 shares of Lifetime Government Income Plus Trust and the Money Market Account represented by the Allied Insured Account.

2. In consideration of the above transfers, Respondent Robert W. Baird & Co., Inc. is liable for and shall pay to Hogan Mathewson the sum of \$57,941.00 and shall pay to Jean Mathewson the sum of \$19,350.00;

3. The parties shall each bear their own respective costs including attorneys' fees;

4. Pursuant to Section 43(c) of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall refund as forum fees, the 400.00 filing fee previously deposited with the NASD by the Claimants Hogan & Jean Mathewson. Respondents Thomas L. Mulcahy, Jr. and Robert W. Baird & Co., Inc. are liable for and shall each pay to the NASD forum fees in the amount of \$400.00.

Dated: 9/1/90

Dated: _____

Dated: _____

BY THE PANEL

S/S [Signature]
Edward S. Marion, Esq.
Presiding Chair

S/S _____
Mr. John B. Braunwarth

S/S _____
Mr. John H. Wolf, III

4. Pursuant to Section 43(c) of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall refund as forum fees, the 400.00 filing fee previously deposited with the NASD by the Claimants Hogan & Jean Mathewson. Respondents Thomas L. Mulcahy, Jr. and Robert W. Baird & Co., Inc. are liable for and shall each pay to the NASD forum fees in the amount of \$400.00.

BY THE PANEL

Dated: _____

S/S _____
Edward S. Marion, Esq.
Presiding Chair

Dated: August 31, 1990

S/S John B. Braunwarth
Mr. John B. Braunwarth

Dated: _____

S/S _____
Mr. John H. Wolf, III

4. Pursuant to Section 43(c) of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall refund as forum fees, the 400.00 filing fee previously deposited with the NASD by the Claimants Hogan & Jean Mathewson. Respondents Thomas L. Mulcahy, Jr. and Robert W. Baird & Co., Inc. are liable for and shall each pay to the NASD forum fees in the amount of \$400.00.

BY THE PANEL


Dated: _____

S/S _____
Edward S. Marion, Esq.
Presiding Chair

Dated: _____

S/S _____
Mr. John B. Braunwarth

Dated: 8/5/90

S/S 
Mr. John H. Wolf, III