

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration BetweenName of Claimant(s)

Frank A. and Marie A. Modesto

90-00914

Name of Respondent(s)Butcher & Company
Wheat First Securities
William TaylorREPRESENTATION

For Claimants: Marc E. Levitt, Esq., of Eugene A. Spector & Associates, P.C.

For Respondents: Michael N. Onufrak, Esq. of White and Williams.

CASE INFORMATION

Statement of Claim filed: 3/29/90

Claimant's Submission Agreement signed on: 3/5/90.

A Joint Statement of Answer of Respondents, Butcher & Company, William Taylor, III and Wheat First Securities filed: 1/24/91.

HEARING INFORMATION

Hearing Date: June 6, 1991 two (2) sessions

Hearing Date: June 7, 1991 two (2) sessions

Hearing Location: Philadelphia, PA

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National Association of
Securities Dealers, Inc.
NASD Financial Center
33 Whitehall Street
New York, New York 100

CASE SUMMARY

Claimants, Frank and Marie Modesto, alleged that they were unsophisticated investors when Respondent, William Taylor, III, ("Taylor"), a broker at Butcher & Co., through various misrepresentations induced them into purchasing risky partnerships which clearly violated their stated investment objectives, that of safe conservative investments with some growth. Claimants further alleged that Respondent, Taylor, later falsified a loan application in order to obtain a loan which he encouraged Claimants to take in order to purchase additional limited partnerships (Celebration Partners I, Ltd., which Claimants alleged has now gone into bankruptcy) which were not suitable for claimants. Claimants contended that Taylor's actions in falsifying information on Claimants' loan application constituted fraud, that Respondent, Butcher & Company violated the "Know your customer" rule in allowing one of its account representatives, Taylor, to invest in unsuitable limited partnerships for Claimants.

Respondents, Butcher & Company, William Taylor, III and Wheat First Securities, maintained that the Statement of Claim is time barred under Section 15 of the NASD, Code and under Federal Law. Respondents contended that all investments were suitable and denied any impropriety on the part of Mr. Taylor in the handling of Claimants' loan application.

RELIEF REQUESTED

Claimants requested compensatory damages in the amount of \$235,000.00. plus unspecified punitive damages.

Respondents requested dismissal of the claim.

AWARD

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

(The parties have agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award be entered. In either case, the parties have agreed to receive conformed copies of the Award while the original(s) remain on file with the NASD).

1. All Claims of the Claimants, Frank and Marie Modesto, against Respondents, Butcher & Company, William Taylor, III and Wheat First Securities, shall be and are hereby dismissed in all respects;

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2. Claimants' Claim for punitive damages is hereby denied;
3. The parties shall each bear their respective costs, including attorneys' fees;
4. Pursuant to Section 43 of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall retain the \$750.00 filing fee previously deposited by the Claimants.

FORUM FEES

Pursuant to Section 43c of the Code of Arbitration Procedure, the following Forum Fees are assessed:

Respondents, Butcher & Company, William Taylor, III and Wheat First Securities are hereby jointly and severally assessed forum fees in the amount of \$1,500.00-(2 sessions X \$750).

Claimants are hereby assessed forum fees in the amount of \$950.00-(2 sessions x 750.00 minus initial deposit of \$750.00 plus \$200.00 due as non refundable hearing session deposit chargeable in this case).

Fees are payable to the National Association of Securities Dealers, Inc.

ARBITRATION PANEL

CONCURRING ARBITRATORS' SIGNATURES

/s/

Joseph R. Lally, Esq.
(Public/Chairman)

/s/

Lionel J. Goulet, Esq.
(Public/Panelist)

/s/

Cornelius C. Clancy
(Industry/Panelist)

DATED BY THE NASD _____

DATED BY NASD
JUNE 28, 1991