

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Richard and Barbara Sowards

v

90-01039

Wedbush, Morgan Securities, Inc.  
Joseph DeBeauchamp  
Gary Feldman

REPRESENTATION

For Claimant: M. Nelson Segal, Esq.

For Respondent: James E. Rogers, Esq. - Riddell, Williams, Bullitt & Walkinshaw

CASE INFORMATION

Statement of Claim filed: April 18, 1990

Claimants' Submission Agreement signed on: April 4, 1990

Joint Statement of Answer filed by Respondents Wedbush, Morgan Securities, Inc. and Gary Feldman on: May 23, 1990

Statement of Answer filed by Respondent, Joseph DeBeauchamp on August 16, 1990

Respondent, Wedbush Morgan Securities, Inc.'s, Submission Agreement signed on: May 22, 1990

Respondent, Gary Feldman's, Submission Agreement signed on May 3, 1990

Respondent, Joseph DeBeauchamp's, Submission Agreement signed on January 22, 1991

HEARING INFORMATION

Pre-Hearing Conferences: None

Hearing Dates/Sessions: February 24, 1991 - Two Sessions;  
February 25, 1991 - One Session;  
- Three Sessions Total.

Hearing Location: Las Vegas, Nevada

CASE SUMMARY

Claimants, Richard E. and Barbara C. Sowards (Sowards) alleged that Respondent, Joseph DeBeauchamp (DeBeauchamp) while employed by Respondent, Wedbush, Morgan Securities, Inc. (Wedbush) recommended the purchase and sale of

securities which Respondents knew, or should have known, were not suitable for the Sowards based upon the information obtained by DeBeauchamp regarding their net worth, income, investment knowledge, experience and goals. Claimants alleged that Respondent Gary Feldman (Feldman) failed to properly supervise DeBeauchamp.

Respondents alleged that they relied on the representations made by Sowards as to their investment goals, financial circumstances, and special needs. Sowards told Respondents that they wished to reduce their income tax obligations and informed DeBeauchamp of this at the initial meeting. This is the information upon which Respondents relied and was the results of misrepresentations made by Claimants. WMS and Feldman cannot be held to be in violation of suitability standards of the NASD nor the NYSE as alleged by Claimants.

WMS and Feldman deny that they have misrepresented the conditions and risks of the investments made. WMS and Feldman had assured themselves, through receipts of ten signed, notarized subscription agreements, that Claimants acknowledged receipt of prospectuses which advised them of the risk and lack of liquidity of the investments.

Respondent, Joseph DeBeauchamp joins in the answer of WMS and Feldman.

RELIEF REQUESTED

Claimants requested: Rescission of their purchase of securities, compensatory damages of \$69,678.80 (as amended at the hearing), punitive damages, interest at the rate of 17% until paid and costs.

Respondents requested: Dismissal of the claim in its entirety.

CONSENTS TO CONSIDERED AND DECIDED

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

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

1. All transactions occurring before April, 1986 are barred by the Statute of Limitations.
2. Respondent, Nathan Morgan Securities, is liable and shall pay to the Claimants, Richard E. and Barbara C. Sowards, the sum of Twenty Thousand Five Hundred Dollars and No Cents (\$25,000.00).
3. Respondent, Joseph DeBeauchamp, is liable and shall pay to the Claimants, Richard E. and Barbara C. Sowards, the sum of Seventy Five Thousand Five Hundred Dollars and No Cents (\$75,500.00).

4. All claims of Claimants Richard R. and Barbara C. Sowards against Respondent Gary Feldman are dismissed.
5. Claimants, Richard R. and Barbara C. Sowards, shall deliver all right, title and interest in the following investments to Respondent, Wedbush Morgan Securities:
  - a. Bogert 1987 II Limited Partnership.
  - b. Bogert 1987 III Limited Partnership.
  - c. Historic Preservation Properties Limited Partnership.
6. Claimants' claim for punitive damages is denied.
7. All claims of Cross-Claimant, Wedbush Morgan Securities, against Cross-Respondent, Joseph DeBeauchamp are denied.
8. The parties shall each bear their respective costs and fees, including attorneys' fees.
9. The NASD shall retain the \$750.00 hearing session fee deposited by the Claimants, representing one-third of the forum fees assessed at three sessions at \$750.00 each.
10. ~~Wedbush Morgan Securities shall pay to the NASD the sum of \$500.00 representing the unpaid non-refundable filing fee for the Cross-claim filed with the Association.~~

**FORUM FEES**

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

- a. ~~Respondent, Wedbush Morgan Securities is assessed and shall pay to the NASD the sum of \$750.00 representing one-third of the forum fees for three sessions at \$750.00 each.~~
- b. ~~Respondent, Joseph DeBeauchamp is assessed and shall pay to the NASD the sum of \$750.00, representing one-third of the forum fees for three sessions at \$750.00 each.~~

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

ARBITRATION PANEL

Chet Olsen

Concurring Arbitrators' Signatures

Chet H. Olsen

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Date of Decision: \_\_\_\_\_

Served 3/16/1992

ARBITRATION PANEL

Public/Industry  
Public  
Industry  
Public Chairperson

Concurring Arbitrators' Signatures

James H. Sowers

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Date of Decision: 7-25-92

Served 3/16/1992

ARBITRATION PANEL

Name

James Bowersox

Dana Madsen

Chet Olsen

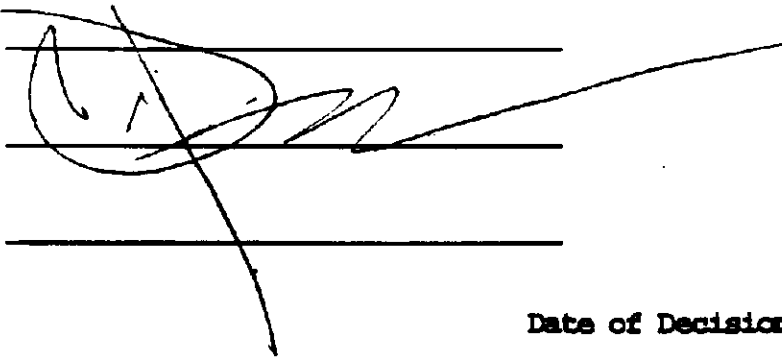
Public/Industry

Public

Industry

Public Chairperson

Concurring Arbitrators' Signatures



Date of Decision:

2/25/92

Served 3/16/1992