

**N.A.S.D. AWARD****NATIONAL ASSOCIATION OF SECURITIES DEALERS**

National Association of  
Securities Dealers, Inc.  
NASD Financial Center  
33 Whitehall Street  
New York, N.Y. 10004  
FAX (212) 858-4389

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In the Matter of the Arbitration Between

Name of Claimant

Calvin G. Zon

91-02329

Name of Respondent

Wheat, First Securities, Inc.

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REPRESENTATION

For Claimant Calvin G. Zon ("Claimant"): Michael R. Miller, Esq. of Southmayd Simpson & Miller.

For Respondent Wheat, First Securities, Inc. ("Respondent"): Jonathan M. Harris, Esq. of Wheat, First Securities, Inc.

CASE INFORMATION

Statement of Claim filed: July 31, 1991.

Claimant's Submission Agreement signed on: July 25, 1991.

Statement of Answer filed by Respondent on: October 7, 1991.

Respondent's Submission Agreement signed on: October 2, 1991.

HEARING INFORMATION

Pre-Hearing Conference: none held.

Hearing Date/Sessions: February 24, 1992 - two sessions

Hearing Location: NASD Office - Washington, D.C.

CASE SUMMARY

Claimant alleged that Respondent revised the amount of Claimant's net worth upwards so that it could open an option account for Claimant. Claimant alleged that since the date his account was originally opened with the Respondent that his account has been reassigned to four different registered representatives and that during this time no efforts were made by

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Respondent's registered representatives to update the information relating to Claimant's financial circumstances or investment objectives. Claimant alleged that copies of his Customer Option Agreement and his account statements were maintained at Respondent's Richmond, VA, headquarters and were not readily available for review by the representatives of Respondent's branch office in Washington, D.C. Claimant alleged that he was encouraged by Respondent to engage in frenzied trading which was far in excess of Claimant's previous investment experience which generated commissions for Respondent in excess of Claimant's net worth. Claimant alleged that Respondent encouraged Claimant to trade excessively and never discouraged Claimant from making a trade. Claimant alleged that when he requested that Respondent close his account with it, Respondent encouraged Claimant to maintain his account. Claimant alleged that Respondent failed to know its customer or to suggest trading that was suitable for him. Claimant alleged that if Respondent had made a reasonable inquiry, it would have discovered that Claimant's financial well being was stretched to its limit by financing Claimant's trading through Claimant's modest bank line of credit, credit cards, life insurance policy, and an investment retirement account. Claimant alleged that Respondent was aware of Claimant's weak financial status because of a bounced check. Claimant alleged that Respondent failed to supervise its registered representatives or Claimant's account.

Respondent maintained that Claimant was an experienced options trader before transferring his account to Respondent. Respondent maintained that Claimant had an investment strategy which was to purchase a small number of deep out of the money call and put options. Respondent maintained that Claimant frequently allowed an option position to expire and then roll the position forward to the forthcoming month. Respondent maintained that this strategy continued unabated and unchanged through four different registered representatives over a six and a half year period. Respondent maintained that Claimant did his own research and market analysis and made his own investment decisions and that he employed his own investment strategy for trading options. Respondent maintained that Claimant did not seek or accept trading suggestions offered to him by Respondent's representatives. Respondent maintained that the only service required of it by Claimant was the execution of trades and to provide current information concerning his open positions. Respondent maintained that Claimant was free to cease trading and close his account at any time. Respondent maintained that Claimant never gave any indication that he was financing his trading through the use of credit card overdrafts, bank lines or other resources other than cash accumulated through savings. Respondent maintained that with respect to the Claimant's bounced check, Claimant was quick to attribute the problem to an error caused by the bank and not to a shortage of available funds.

**RELIEF REQUESTED**

Claimant requested: Compensatory damages in the amount of \$37,650, together with attorneys' fees, interest and cost to be determined.

Respondent requested: that Claimant's claim be dismissed in its entirety.

OTHER ISSUES CONSIDERED & DECIDED

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 original(s) remain on file with the NASD.

AWARD

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

1. That the Claimant's claim is dismissed based on the merits and not on arguments concerning the Statute of Limitations.
2. That all parties shall bear their respective costs including attorneys' fees.
3. All other claims are denied in their entirety.

FORUM FEES

Pursuant to Section 43(c) of the Code of Arbitration Procedure, Forum Fees are assessed against the Claimant in the amount of \$800 (two hearing sessions x the hearing session fee of \$400); however, Claimant is entitled to apply the hearing session fee previously deposited to this amount so that the amount due from the Claimant is \$400.

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

Concurring Arbitrator's Signature

Name

William H. Malloy, Jr., Esq.  
William H. Malloy, Jr., Esq.

Public/Industry

Public

Date of Decision: APR. 19, 1992

NASD Date of Decision: April 21, 1992

Respondent requested: that Claimant's claim be dismissed in its entirety.

OTHER ISSUES CONSIDERED & DECIDED

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Concurring Arbitrator's Signature  
Name

Public/Industry

Shahla Butler  
Shahla Butler

Public

Date of Decision: 4/10/92

NASD Date of Decision: April 21, 1992

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Concurring Arbitrator's Signature

Name

W. David Powell

W. David Powell

Public/Industry

Industry

Date of Decision: March 31, 1992

NASD Date of Decision: April 21, 1992

W. David Powell  
Notary Public, State of Florida  
My Commission Expires Sept. 22, 1994  
Bonded thru my firm - insurance info