

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between)	
)	
<u>Name of Claimant(s)</u>)	
)	
Donald G. and Cynthia F. Brock)	
)	
<u>Name of Respondent(s)</u>)	Case No. 92-01018
)	
Wheat First Securities, Inc.)	
Scott Littlefield -)	
)	

REPRESENTATION

For Claimants, Donald and Cynthia Brock ("the Brocks"): Kenneth Kirkman, Esq. of Kirkman & Whitford, P.A.

For Respondents, Wheat First Securities, Inc. ("Wheat") and Scott Littlefield ("Littlefield"): Johnathan Powers, Esq. of Wheat First Securities, Inc.

CASE INFORMATION

Statement of Claim filed: March 19, 1992. Claimants' Submission Agreement signed: March 13, 1992.

Respondents' Statement of Answer filed: June 29, 1992. Respondents' Submission Agreements signed: July 14, 1992 by Littlefield, and on July 20, 1992 by John Iven on behalf of Wheat.

HEARING INFORMATION

On November 2, 1992, in Raleigh, North Carolina, a hearing lasting one (1) session was conducted.

CASE SUMMARY

Claimants alleged that Respondents were liable for misrepresenting to Claimants that there was no sales charge on their purchase of a certain bond.

Respondents denied all allegations of wrongdoing and alleged that: there was no misrepresentation made; Claimants received a prospectus; Claimants were advised of the sales charge and received a discount on the sales charge.

Respondents alleged the affirmative defenses of: failure to exercise due diligence; ratification; good faith; contributory negligence; failure to state a cognizable basis for a claim; waiver; laches; and, estoppel.

RELIEF REQUESTED

Claimants requested damages of \$9,800.00.

Respondents requested dismissal of the claim plus costs and expenses.

OTHER ISSUES CONSIDERED & DECIDED

The parties have agreed that a handwritten, signed Award may be entered. In this case, the parties have agreed to receive a conformed copy of the Award while the original remains on file with the NASD.

AWARD

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

1. Respondents, Wheat and Littlefield, are found liable, jointly and severally, and shall pay to the Claimants the amount of \$6,600.00.
2. Respondents' request for costs and expenses is denied.

OTHER COSTS

1. The parties shall each bear all other costs and expenses incurred by them in connection with this proceeding including attorney's fees.

FORUM FEES

1. Pursuant to Section 43(c) of the Code of Arbitration Procedure, the Arbitrator has assessed forum fees in the amount of \$200.00 (one session x \$200.00 per session).

2. Claimants are hereby assessed \$100.00 for which the NASD shall retain the \$200.00 previously deposited in full satisfaction thereof.

3. Respondents, Wheat and Littlefield, are hereby assessed \$100.00, jointly and severally, payable directly to the Claimants as a partial refund of Claimants' hearing session deposit.

4. The NASD shall retain the non-refundable filing fee of \$75.00 paid by the Claimants.

5. The NASD shall retain the session deposit of \$200.00 paid by Claimants.

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

Arbitrator's Signature


John A. Meadows

Public

Date of Decision: December 29, 1992