

N.A.S.D. AWARD

Arbitration

<sup>®</sup>  
NATIONAL ASSOCIATION OF SECURITIES DEALERS

National Association of  
Securities Dealers, Inc.  
One East Broward Boulevard  
Suite 1000  
Ft. Lauderdale, Florida 33301  
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In the Matter of the Arbitration Between )

Name of Claimant(s) )

Gilbert C. Mays )

Name of Respondent(s) )

Wheat First Securities, Inc. )  
Harold E. Bissett, Jr. )

Case No. 92-01252

REPRESENTATION

Claimant, Gilbert C. Mays, ("Mays") was pro se.

For Respondents, Wheat First Securities, Inc. ("Wheat") and Harold E. Bissett, Jr. ("Bissett"): John M. Ivan of Wheat First Securities, Inc.

CASE INFORMATION

Statement of Claim filed: April 9, 1992. Claimant's Submission Agreement signed: April 2, 1992.

Respondents, Wheat and Bissett's, Joint Statement of Answer filed: June 12, 1992. Respondent, Wheat's, Submission Agreement signed by John M. Ivan on June 8, 1992 and by Harold E. Bissett, Jr. on July 9, 1992.

HEARING INFORMATION

On September 1, 1992, a Pre-hearing Conference lasting one (1) session was conducted via telephone conference call with an arbitrator.

On September 9, 1992, in Charlotte North Carolina a hearing lasting one (1) session was conducted.

CASE SUMMARY

Claimant alleged that in March of 1986 Respondents talked him into replacing his \$10,000.00 Eastern Mini Power 11% bonds and his \$20,000.00 North Carolina Eastern Mini Power 11.25% bonds, which were being called, with Retirement Living Partnership ("R.L.P."), which paid no dividends since February of 1989 and that the dividends that R.L.P. did pay was substantially less than the bonds he previously owned. Claimant maintained that R.L.P. was an unsuitable recommendation in light of his financial situation and investment objective which Respondents were aware of.

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Respondents denied all allegations of wrongdoing and maintained that Claimant was provided a prospectus which described the nature and risks of the investment, that Respondents had a reasonable and good faith basis to believe the investment would be a sound income vehicle and an alternative to the municipal bonds and that losses were due to events totally out of Respondents' control and were described as potential risks in the prospectus. Respondents further maintained that the lapse of six years since the investment bars Claimant's claim and this arbitration.

**RELIEF REQUESTED**

Claimant requested that Respondents be made to replace Retirement Living Partnerships with Eastern Mini Power Bonds yielding at least \$3,350.00 annually.

Respondents requested that this arbitration be dismissed and that Respondents be reimbursed for all costs required to defend this claim.

**OTHER ISSUES CONSIDERED & DECIDED**

1. Prior to the hearing, on September 1, 1992, a telephone conference was held among the parties and the arbitrator to decide Respondents' Motion to Dismiss. Said motion was denied by the arbitrator;
2. At the hearing, all parties present agreed that, although the amount of the Claim exceeded \$30,000.00, the single arbitrator was acceptable to hear and decide this matter.

**WARD**

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 First Securities, Inc. and Harold E. Bissett, Jr., are found liable, jointly and severally, and shall pay to the Claimant the amount of Twenty Thousand Dollars And No Cents (\$20,000.00).

**OTHER COSTS**

The parties shall each bear all 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 \$600.00 (one Pre-hearing Conference x \$300.00 plus one session x \$300.00 per session);

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2. Claimant is hereby assessed forum fees in the amount of \$200.00 for which the NASD shall retain the \$300.00 previously deposited in full satisfaction thereof (the remaining \$100.00 to be refunded to Claimant by Respondents);

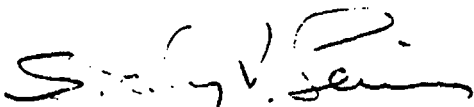
3. Respondents are hereby assessed forum fees in the amount of \$400.00, jointly and severally, \$100.00 payable directly to the Claimant and \$300.00 payable to the National Association of Securities Dealers, Inc.;

4. The NASD shall retain the non-refundable filing fee of \$120.00 paid by the Claimant;

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

**ARBITRATOR**

**Arbitrator's Signature**



**Stanley V. Lewis**  
**(Sole Public Arbitrator)**

**Date of Decision:** October 5, 1992