

**N.A.S.D. AWARD**

**NATIONAL ASSOCIATION OF SECURITIES DEALERS**

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In the Matter of the Arbitration Between

Name of Claimant(s)

Sharon and Joel Van Weelden

92-01352

Name of Respondent(s)

Harrison Mayes Securities, Inc.  
Robert L. Walker

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**REPRESENTATION**

For Claimants, Sharon and Joel Van Weelden ("the Van Weeldens"): Brian Lowe of Investors Arbitration Services, Inc.

For Respondent, Harrison Mayes Securities, Inc. ("Harrison Mayes"): W. A. Harrison, III of Harrison Mayes.

Respondent, Robert Walker ("Walker"): Pro Se.

**CASE INFORMATION**

Statement of Claim filed: April 15, 1992. Claimants' Submission Agreement signed: May 4, 1992.

Respondent, Walker's, Statement of Answer filed: June 24, 1992. Respondent, Walker's, Submission Agreement signed: June 23, 1992 by Walker.

Respondent, Harrison Mayes, did not file a Statement of Answer or sign a Submission Agreement as required by Sections 12 and 13 of the Code (see "Other Issues").

**HEARING INFORMATION**

None.

### **CASE SUMMARY**

Claimants alleged that Respondents were liable for inducing Claimants to purchase Security High Income Fund through fraudulent misrepresentations and concealed their wrongdoing by deliberate misstatements of Claimants' account status. Claimants alleged breach of contract and unsuitability.

Respondent, Walker, denied all allegations of wrongdoing and alleged that: Claimant, Sharon Van Weelden, received a prospectus; Sharon Van Weelden was aware of the risks involved; and, there was no contract for Walker to reimburse Claimants.

Respondent, Harrison Mayes, failed to file an Answer.

### **RELIEF REQUESTED**

Claimants requested damages of \$10,000, plus costs, and interest.

Respondent, Walker, requested dismissal of the claim.

Respondent, Harrison Mayes, failed to file an Answer.

### **OTHER ISSUES CONSIDERED & DECIDED**

1. Jurisdiction exists pursuant to Section 12 of the NASD Code of Arbitration Procedure ("Code"), Respondent, Harrison Mayes being an NASD member firm at the time this controversy arose.

2. This arbitrator finds that Harrison Mayes received service and notice of this proceeding based upon the evidence contained in the file and which is hereby marked as Arbitrator's Exhibit #2. The NASD has made every attempt to locate and serve Harrison Mayes with notice of this proceeding as demonstrated by the evidence contained in Arbitrator's Exhibit #2.

### **AWARD**

Pursuant to Section 13 of the NASD, Inc. Code of Arbitration Procedure ("Simplified Arbitration") a single arbitrator, Michael Casey, was selected to review and determine the matter in controversy between the parties as set forth in submissions to arbitration.

The Arbitrator, having considered the proofs of the parties, including any additional documentary submissions of the Claimants and the Respondents has decided and determined in full and final resolution of the issue submitted for determination as follows:

1. Respondents, Walker and Harrison Mayes, are found liable, jointly and severally, and shall pay to the Claimants the amount of \$100 per month for 49 months the first payment of

which shall be due no later than the 15th of the month following the month in which this Award is received.

2. Claimants' request for interest, attorney's fees, and costs is denied.

#### **OTHER COSTS**


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 \$75.
2. Claimants are hereby assessed \$37.50 for which the NASD shall retain \$37.50 of the \$300 previously deposited in full satisfaction thereof. The NASD shall refund to Claimants the \$262.50 overpayment.
3. Respondents, Walker and Harrison Mayes, are hereby assessed \$37.50, jointly and severally, payable to the National Association of Securities Dealers, Inc.
4. The NASD shall retain \$75 of \$100 previously deposited by Claimants for the non-refundable filing fee.
5. The NASD shall refund to Claimants the \$25 overpayment.

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

Arbitrator's Signature



Michael R. Casey, Esq.

Public

Date of Decision: July 12, 1993