

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Name of Claimant

Douglas S. Anderson

92-02277

Name of Respondents

Wheat First Securities, Inc.  
Lee Kelly

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**REPRESENTATION**

Claimant Douglas S. Anderson ("Claimant") represented himself.

Respondents Wheat First Securities, Inc. ("Wheat") and Lee Kelly ("Kelly") were represented by Jonathan M. Harris, General Counsel of Wheat First Securities, Inc.

**CASE INFORMATION**

Statement of Claim filed on: July 8, 1992.

Claimant's Submission Agreement signed on: July 6, 1992.

Joint Statement of Answers filed by Respondents Wheat and Kelly ("collectively referred to as "Respondents") filed on: September 23, 1992.

Respondent Wheat's Submission Agreement signed on: September 21, 1992.

Respondent Kelly's Submission Agreement signed on: October 1, 1992.

**HEARING INFORMATION**

Hearing Date/Sessions: June 21, 1993, one session

Hearing Location: NASD Offices, Washington, D.C.

### **CASE SUMMARY**

Claimant alleged that Kelly made a material misrepresentation to Claimant to induce Claimant to purchase 1500 shares of Perpetual Financial Bank cv 8.5% pfd Series A ("Perpetual"). Claimant alleged that Respondents negligently handled his account. Claimant alleged that Kelly breached his contractual obligation to Claimant; that Kelly breached his fiduciary duties he owed to Claimant; and, that Kelly made unauthorized purchases in Claimant's account.

Respondents categorically denied each and every allegation of wrongdoing asserted by Claimant. Respondents maintained that Kelly made no misrepresentation nor did he negligently handle Claimant's accounts. Respondents maintained that the decline of Claimant's Perpetual was due to market conditions. Respondents maintained that they are not guarantors of Claimant's losses. Respondents maintained that at all times they acted in good faith and in an appropriate fashion.

### **RELIEF REQUESTED**

Claimant requested compensatory damages in the amount \$13,797.00; interest in the amount \$3,311.00; and, costs in the amount of \$650.00. Claimant also requested that the total cost of \$17,758.00 be trebled and that he be awarded the total amount of damages in the amount of \$53,274.00.

Respondents requested that Claimant's claim be dismissed in its entirety and that they be awarded all costs and expenses incurred in defending this action.

### **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.

At the commencement of the hearing, the Respondents made a Motion to Dismiss, and at that time the Motion was denied. At the close of Claimant's case, Respondents renewed their Motion to Dismiss, and at that time the Motion was granted.

### **AWARD**

After considering the pleadings, the testimony and the evidence presented at the hearing, the undersigned arbitrators have decided in full and final resolution of the issues submitted

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for determination as follows:

1. That Claimant's claim is denied in its entirety.
2. That each party shall bear their respective costs and expenses, except as indicated herein.

**FORUM FEES**

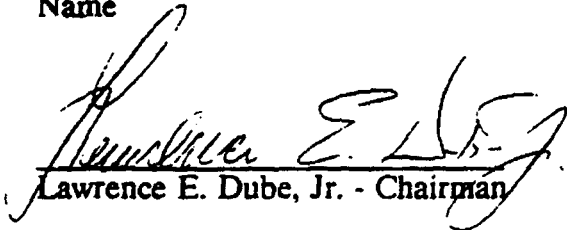
Pursuant to Section 43(c) of the Code of Arbitration Procedure, the following forum fees are assessed:

one hearing session x \$500 = \$500

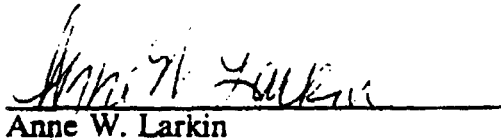
That Claimant is assessed the forum fee for the single hearing session conducted in this matter. Claimant, however, is entitled to offset this amount with his previously filed hearing session deposit of \$500, so that no monies are due to the NASD, Inc.

Concurring Arbitrators' Signatures  
Name

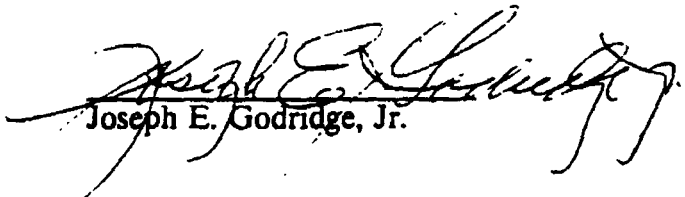
Public/Industry

  
Lawrence E. Dube, Jr. - Chairman

Public

  
Anne W. Larkin

Public

  
Joseph E. Godridge, Jr.

Industry

Date of Decision: July 1, 1993