

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Name of Claimants

William S. and Carole M. Watman

92-02458

Name of Respondents

Wheat First Securities, Inc.  
Stanley Kotler  
William Butler

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**REPRESENTATION**

For Claimants William S. and Carole M. Watman ("Claimants"): William S. Watman

For Respondents Wheat First Securities, Inc. ("Wheat"), Stanley Kotler ("Kotler") and William Butler ("Butler"): Jonathan M. Harris, General Counsel of Wheat First Securities, Inc.

**CASE INFORMATION**

Statement of Claim filed: July 23, 1992

Claimants' Submission Agreement signed on: July 22, 1992

Joint Statement of Answer filed by Respondents Wheat, Kotler and Butler (hereinafter collectively referred to as "Respondents" on: September 21, 1992

Wheat's Submission Agreement signed on: August 19, 1992

Kotler's Submission Agreement signed on: August 19, 1992

Butler's Submission Agreement signed on: August 20, 1992

**HEARING INFORMATION**

Pre-Hearing Conference: May 10, 1993

Hearing Dates/Sessions: May 24, 1993 - two sessions

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

### **CASE SUMMARY**

Claimants alleged that Kotler failed to place an order for shares of Callaway Golf Co. upon the initial public offering. Claimants alleged that when Respondents knew that the Callaway offering was oversubscribed that Respondents had a duty to disclose this fact to Claimants. Claimants further alleged that trades in Radiation Care, Inc. and Mantiowac Corp. were improperly executed in violation of Securities and Exchange Commission rules by reason of the charging of commissions discounted less than agreed.

Respondents categorically denied each and every allegation asserted by Claimants. Respondents denied the placement of an order and acknowledged only an indication of interest. Respondents were unable to obtain shares of Callaway for Claimants because the lead underwriter retained a vast majority of the shares being offered in the underwriting. Respondents maintained that there was never an agreement with Claimants that they would be awarded commission discounts on every trade. Respondents maintained that Claimants' account was properly handled at all times and that all pertinent information was disclosed to Claimants and that Claimants' claim is without merit.

### **RELIEF REQUESTED**

Claimants requested compensatory damages in the amount of \$36,068.52, plus interest and costs associated in bringing this claim.

Respondents requested that Claimants' claim be denied in its entirety and that Respondents be granted reimbursement of all fees, costs and expenses incurred as a result of defending this claim.

### **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 originals remain on file with the NASD.

- Respondents at the close of Claimants' case renewed their Motion to Dismiss Claimants' Claim and, at that time, the Panel granted Respondents Motion.

### **AWARD**

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

1. That Claimants' claim is denied in its entirety.

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2. That the parties shall bear their respective expenses including attorney's fees.

**FORUM FEES**

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

2 hearing sessions X \$400 = \$800 plus 1 pre hearing conference fee of \$300 = \$1,100 minus hearing session deposit of 400 = net \$700 due.

Forum fees are assessed against the Claimants so that the Claimants' shall pay to the NASD the amount of \$700.

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

Concurring Arbitrator's Signature  
Name

Public/Industry

  
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Joseph A. Kenary, Esq.

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Public Arbitrator

NASD Date of Decision: July 6, 1993

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Public/Industry

  
Carol C. Jackson

Industry Arbitrator 

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Public/Industry

  
Leland M. Cheskis

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Public Arbitrator

NASD Date of Decision: July 6, 1993