

PUBLIC

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

Peter C. Stephen, Jr. & Patricia Stephen

92-02819

Name of Respondents

Mariner Financial Services, Inc.
R.B. Wilbur

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on August 21, 1992, Claimants Peter & Patricia Stephen, who appeared Pro Se, alleged that Respondent R.B. Wilbur, through the firm Mariner Financial Services, Inc., recommended they purchase an IRE Limited Partnership, which they were led to believe was a safe investment. The Claimants further alleged that this investment decreased in value, and that when they questioned the Respondents, they were assured that it was still sound and were encouraged to hold onto it. The Claimants contended that this investment did not meet their investment objectives of safety of principal while supplementing a social security and pension income, and that therefore, the Respondent should be held liable for the losses they have incurred.

Respondents Mariner Financial Services, Inc. and R.B. Wilbur, in a Joint Statement of Answer through their counsel Frederick K. Hoops, Esq. of Frederick K. Hoops & Associates, P.C., Farmington Hills, MI, maintained that they deny that the Claimants sought only safe investments and that they in no way guaranteed any performance of any investment. The Respondents further maintained that the Claimants received a prospectus for this investment and knew it represented a long term, not immediate income producing investment, and also maintained that the risks of this investment were explained to the Claimants by Respondent R.B. Wilbur and by information in the prospectus. The Respondents contended that they did not assure the Claimants this was a sound investment, nor that they should hold onto it. Respondents R.B. Wilbur and Mariner Financial Services, Inc. further contended that they committed no wrongdoing and should not be held liable in this matter.

RELIEF REQUESTED

Claimants Peter & Patricia Stephen requested \$10,000.00 in actual damages.

Respondents Mariner Financial Services, Inc. and R.B. Wilbur requested that the claims of the Claimants be dismissed.

OTHER ISSUES CONSIDERED & DECIDED

The Motion to Dismiss this matter pursuant to Section 15 of the NASD Code of Arbitration Procedure filed by Respondents Mariner Financial Services, Inc. and R.B. Wilbur is denied.

AWARD

Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Jeffrey M. Bauer, Esq., was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimants on November 16, 1992, by Respondent Mariner Financial Services, Inc. on December 31, 1992 and by Respondent R.B. Wilbur on January 31, 1993.

And, the Arbitrator, having considered the proof of the Parties, has decided and determined in full and final resolution of the issues submitted for determination as follows:

1. Respondent R.B. Wilbur is liable and shall pay to Claimants Peter & Patricia Stephen \$2,050.00 in actual damages.
2. The claims of the Claimants against Respondent Mariner Financial Services, Inc. are dismissed in their entirety.
3. Respondent R.B. Wilbur is liable and shall pay to Claimants Peter & Patricia Stephen simple interest at the rate of 8% per annum from June 30, 1992 to the date of payment of the award.
4. The parties shall bear their respective costs.
5. The \$150.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimants shall be retained by the NASD, Inc. Respondent R.B. Wilbur is liable and shall pay \$150.00 to the Claimants as reimbursement.

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AFFIRMATION

I, JEFFREY M. BAUER, ESQ., do hereby affirm upon my oath as arbitrator that I am the individual described herein and who executed this instrument, which is my oath and award.


Signature of Arbitrator

DATE OF DECISION: July 29, 1993