

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

**NATIONAL ASSOCIATION OF SECURITIES DEALERS**

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**In the Matter of the Arbitration Between**

**Name of Claimants**

**Dora B. Bishop, L. Greer Bishop & IRA**

**92-03378**

**Name of Respondents**

**F.N. Wolf & Co., Inc.  
Sherwood Capital, Inc.**

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**REPRESENTATION**

**For Claimants: Guy Burns, Esq. and Bruce W. Barnes, Esq. of Johnson, Blakely, Pope, Bokor, Ruppel & Burns, P.A., Tampa, FL.**

**For Respondent, Sherwood Capital, Inc., ("Sherwood"): Jeffrey P. Flynn, Esq. of Crummy, del Deo, Dolan, Griffinger & Vecchione, Newark, NJ.**

**For Respondent, F.N. Wolf & Company, Inc., ("FN Wolf"): Robert W. Hudson, Esq. of Tew & Garcia-Pedrosa, Miami, FL.**

**CASE INFORMATION**

**Statement of Claim filed October 6, 1992.**

**Claimant's Submission Agreement signed on September 23, 1992.**

**Statement of Answer filed by Respondent, Sherwood, on December 4, 1992.**

**Respondent, Sherwood's, Submission Agreement signed by Dennis Marino on behalf of Sherwood on December 28, 1992.**

**Statement of Answer filed by Respondent, FN Wolf, on December 7, 1992.**

**Respondent, FN Wolf's, Submission Agreement signed by Richard Sullivan on behalf of FN Wolf on November 17, 1992.**

**HEARING INFORMATION**

**On October 24, 1996, in Tampa, FL, a hearing lasting two sessions was conducted.**

## **CASE SUMMARY**

Claimants, L. Greer Bishop and Dora B. Bishop, jointly, and the L. Greer Bishop Individual Retirement Account, asserted claims for negligence and gross negligence, negligent supervision, breach of fiduciary duty, fraud, violations of Chapter 517 of the Florida Statutes, and violations of Sec. 77.102, et. seq. of the Florida Statutes (Civil Remedy for Criminal Practices) against Respondent, Sherwood Capital, Inc. The joint claims of L. Greer Bishop and Dora B. Bishop arose out of the purchase of stocks which the Bishops claim were unsuitable, involved a high degree of risk, and the Bishops further maintain that material facts regarding the stocks were not disclosed to them. The claim of the L. Greer Bishop Individual Retirement Account arose out of Sherwood's recommendation that the account purchase a limited partnership in VMS Strategic Limited Fund II. It was alleged that the investment was inappropriate and unsuitable, involved a high degree of risk, and that Sherwood failed to disclose material facts relating to the investment. Claimants further maintained that they were affirmatively misled with regard to the investments.

Respondent, Sherwood, alleged that based upon information given to them by the Claimants, there were reasonable grounds to believe that the recommendations made by Sherwood were suitable for the Claimants. Good judgement was exercised by Sherwood in each of the recommendations made to Claimants and there were reasonable grounds to believe that the recommendations which were made were completely compatible with the Claimants' stated investment objectives. Respondent, Sherwood, further alleges, that Claimants knowingly, intelligently and voluntarily assumed the risks that they might suffer loss in their investments. Therefore, Sherwood is not responsible for any losses which may have been incurred by Claimants on their investments.

Respondent, FN Wolf, on August 24, 1994, filed for Voluntary Petition under Chapter 11 in the United States Bankruptcy Court for the Southern District of New York, and all proceedings against FN Wolf are stayed.

## **RELIEF REQUESTED**

Claimants requested in regard to their joint claim, actual damages of \$11,355.16. With regard to the claim of L. Greer Bishop IRA, the Claimants requested damages of \$75,624.41, inclusive of accrued interest. In addition to actual damages, Claimants requested an award of punitive damages, costs of \$5,000, and Claimants further requested that they be awarded an entitlement to attorney's fees pursuant to Chapter 517 of the Florida Statutes and/or pursuant to Section 772.102, et. seq. of the Florida Statutes.

Respondent, Sherwood, requested an entry of judgement in its favor and against claimant, dismissing, with prejudice, all claims for relief as set forth against Sherwood and awarding to Sherwood and against claimants the attorneys fees, interests, and costs incurred by Sherwood in responding to this matter together with an award of all such additional and further relief as the Arbitration Panel deems just and proper.

## **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.

### **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 for determination as follows:

- 1) Respondent, Sherwood Capital, Inc., is found liable and shall pay to the Claimant the amount of \$35,213.07, plus interest at the rate of 8% per annum for 6 years and 5 months in the amount of \$18,076.04, for a total due to the Claimants of \$53,289.11.
- 2) Claimants', joint claim for damages of \$11,355.16 is hereby denied.
- 3) Claimants', requests for punitive damages, costs, and attorney's fees are hereby denied.
- 4) Respondent, Sherwood, requests for attorneys fees, interest and costs are hereby denied.

### **FORUM FEES**

Pursuant to Rule 10332 of the Code of Arbitration Procedure, the Panel has assessed the Forum Fees in the amount of \$1,200, (two hearing sessions x \$600).

Claimants are hereby assessed \$600 for which the NASD shall retain the \$600.00 previously deposited in full satisfaction thereof.

Respondent, Sherwood, is hereby assessed, \$600, payable to the NASD.

The NASD shall retain the non-refundable filing fee of \$250 paid by the Claimants.

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

#### **Concurring Arbitrators' Signatures**

Name

Public/Industry

/s/

Public

Harold M. May

/s/

Industry

Warren Forest

/s/

Public

Boyd Stagmer

January 8, 1997

Date of Decision: \_\_\_\_\_