

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

**NATIONAL ASSOCIATION OF SECURITIES DEALERS**

**In the Matter of the Arbitration Between**

**Name of Claimants**

**Billy S. and Martha L. Haynes**

**92-04169**

**Name of Respondents**

**Waddell & Reed, Inc.**

**Richard C. Bousum**

**REPRESENTATION**

**For Claimants at the hearing: Scott E. Tarter, Esq. of Henderson, Daily, Withrow & DeVoe, Indianapolis, Indiana.**

**For Respondent, Waddell & Reed, Inc. at the hearing: Rodney O. McWhinney, Esq., of Waddell & Reed, Inc., Shawnee Mission, Kansas. For Respondent, Richard C. Bousum at the hearing: Mark E. Maddox, Esq. of Coons & Saint, Indianapolis, Indiana.**

**CASE INFORMATION**

**Statement of Claim filed: December 10, 1992. Claimant's Submission Agreement signed on: December 5, 1992.**

**Statement of Answer filed by Respondent, Waddell & Reed, Inc. on: February 1, 1993. Statement of Answer filed by Respondent, Richard C. Bousum on: March 8, 1993.**

**Respondent, Waddell & Reed, Inc.'s Submission Agreement signed on: January 28, 1993. Respondent, Richard C. Bousum's Submission Agreement signed on: March 26, 1993.**

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### **HEARING INFORMATION**

Hearing Dates/Sessions: July 12, 1993 for two (2) sessions;  
July 13, 1993 for two (2) sessions.

Hearing Location: Indianapolis, Indiana.

### **CASE SUMMARY**

Claimants Billy S. and Martha L. Haynes ("Claimants") alleged that Respondent Waddell & Reed, Inc. ("Waddell"), through its agent, Respondent Richard Bousum ("Bousum") recommended and purchased unsuitable investments, engaged in misrepresentation and omitted to state material facts, and failed to supervise or prevent wrongful activities in the Claimant's account. More specifically, Claimants alleged that Bousum purchased United Municipal Bond Fund, Inc. and a junk bond fund known as the United High Income fund, Inc. totally in disregard to Claimant's very conservative investment objectives.

Respondent Waddell alleged that the Claimants were furnished with a copy of the prospectus which pointed out that the fund was not guaranteed and the investment involved risk. Waddell further alleged that Bousum believed that the recommendations he made were suitable and that the Claimants were aware of the fluctuation as market conditions and interest rates changed. In its Answer, Waddell included a motion to dismiss for lack of jurisdiction.

Respondent Bousum generally denied all of the substantive allegations of the claim and specifically denied that the Claimants suffered any losses or damages by reason of any wrongdoing or breach of duty on his part. Bousum made reference to and incorporated Waddell's Answer into this Answer. Bousum also alleged that the claim should be dismissed for lack of jurisdiction.

### **RELIEF REQUESTED**

Claimants requested actual damages in the sum of \$78,660.38; interest; costs, expenses and disbursements, including reasonable attorney's fees; and for all other relief which the panel deems just and proper.

Respondent Waddell requested that the Statement of Claim be denied. Respondent Bousum requested that the Statement of Claim be denied and that the Claimants be liable for his costs and attorney's fees.

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### OTHER ISSUES CONSIDERED & DECIDED

The panel denied the Respondent's Motion To Dismiss for lack of jurisdiction.

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. The Claimant's Statement of Claim is denied;
2. Each of the parties shall bear their own costs and expenses, including attorney's fees, other than those specifically enumerated for under Forum Fees.

### FORUM FEES

Pursuant to Section 43c of the Code of Arbitration Procedure, the following Forum Fees are assessed:

4 sessions X \$400 = \$1600 minus hearing session deposit of \$400 = net \$1200 due.

The additional forum fees are assessed against Claimants in the amount of \$1200.00.

The additional forum fees assessed by the panel are payable to the National Association of Securities Dealers, Inc.

By The Arbitration Panel:

Dated:

September 3, 1993



Dale E. Hunt, Presiding  
Public Arbitrator

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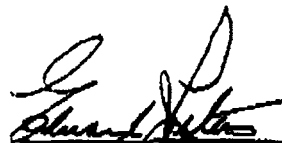
Edward J. Peters  
Public Arbitrator

Daniel J. Sheehan  
Daniel J. Sheehan  
Industry Arbitrator

Date Award Served By The NASD: 9-20-93

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4 September '93

  
Edward J. Peters  
Public Arbitrator

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Daniel J. Sheehan  
Industry Arbitrator

Date Award Served By The NASD: 9-20-93