

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

John R. Meares
Helen A. Meares

CONSOLIDATED AWARD
93-03281 & ~~93-03264~~

Name of Respondents

Wilshire Discount Securities
Robert Scott Securities, Inc.

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on August 20, 1993, Claimant John R. Meares, who appeared Pro Se, alleged that Respondent Wilshire Discount Securities acted irresponsibly by not checking the status of Hill Williams Income Fund II before soliciting him to purchase shares, and that, had it performed due diligence, it would have known that HWDC was not developing their real estate properties, and that it was on the verge of bankruptcy. The Claimant contended that the liability for his losses belongs to the Respondents, who should be held liable in this matter.

In this consolidated action, Claimant Helen A. Meares, who also appeared Pro Se, alleged that Respondent Wilshire Discount Securities failed to keep its fiduciary duty to the Claimant by not keeping informed about the financial conditions of Hill Williams Development Corp., and that the Respondents were irresponsible in not checking out the status of HWIF2 before soliciting her to purchase shares. Claimant Helen Meares contended that she has suffered damages due to the wrongdoing of the Respondents, and that therefore, she should be compensated for her loss.

In an answer to the claims filed, Respondent Wilshire Discount Securities, through its representative, Donna Roach, maintained that it conducted due diligence and the materials that it and the regulatory authorities monitored appeared authentic and trustworthy. The Respondent further maintained that it also met all its moral and legal obligations as evidenced by the Hill Williams MAI appraisals on their properties. Respondent Wilshire Discount Securities also indicated that these Claimants are parties to a class action, and that, therefore the matter should not be heard in this arbitration forum.

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Respondent Robert Scott Securities, Inc. failed to file an Answer to the Statement of Claim.

RELIEF REQUESTED

Claimant Helen A. Meares requested \$5,000.00 in actual damages, plus return of the NASD filing fee.

Claimant John R. Meares requested \$7,500.00 in actual damages, plus return of the NASD filing fee.

Respondent Wilshire Discount Securities requested that the claims of the Claimants be dismissed.

Respondent Robert Scott Securities, Inc. failed to file an Answer to the Statement of Claim.

OTHER ISSUES CONSIDERED & DECIDED

Respondent Wilshire Discount Securities requested that this matter be found ineligible for arbitration due to a pending class action. This issue was reviewed and considered by the arbitrator. The Respondent's request is denied; this matter is eligible for arbitration.

In accordance with Section 13 of the NASD Code of Arbitration, the Respondent Robert Scott Securities, Inc. was served a copy of the Statement of Claim by regular and certified mail and given an opportunity to respond, which it failed to do. Notice of the claim was served upon Respondent Robert Scott Securities, Inc. as evidenced by return receipt cards on file at the NASD.

Pursuant to the By-Laws of the NASD the arbitrator determined that Respondent Robert Scott Securities, Inc. had notice of the Statement of Claim and was required to submit to this arbitration proceeding and is, therefore, bound by the arbitrator's ruling and determination.

AWARD

Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Robert G. Bailey, Esq., was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by Claimant John R. Meares on August 13, 1993 and by Claimant Helen A. Meares on August 16, 1993. Respondents Wilshire Discount Securities and Robert Scott Securities, Inc. failed to sign Submission Agreements as required by Sections 12 & 13 of the NASD Code of Arbitration Procedure.

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. Respondents Wilshire Discount Securities and Robert Scott Securities, Inc. are jointly and severally liable and shall pay to Claimant John R. Meares \$7,500.00 in actual damages.
2. Respondents Wilshire Discount Securities and Robert Scott Securities, Inc. are jointly and severally liable and shall pay to Claimant Helen A. Meares \$5,000.00 in actual damages.
3. The parties shall bear their respective costs.
4. The \$150.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by each Claimant shall be retained by the NASD, Inc. Respondents Wilshire Discount Securities and Robert Scott Securities, Inc. are jointly and severally liable and shall pay \$150.00 to Claimant Helen A. Meares and \$150.00 to Claimant John R. Meares as reimbursement of the NASD filing fee.

AFFIRMATION

I, **ROBERT G. BAILEY, 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: June 9, 1994