

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

Name of Claimant

Alice R. Wood

93-03178

Name of Respondents

DeBorah Stanford
Waddell & Reed, Inc.

REPRESENTATION OF PARTIES

For Claimant, Alice Wood at the hearing: Thomas Vaughn, Esq. and Gerald S. McCarthy, Esq. of Thomas E. Vaughn & Associates, Chicago, Illinois.

For Respondents, DeBorah Stanford and Waddell & Reed, Inc. at the hearing: Rodney O. McWhinney, Esq. of Waddell & Reed, Inc., Shawnee Mission, Kansas.

CASE INFORMATION

Statement of Claim filed on: August 12, 1993. Claimants' Submission Agreement signed on: August 3, 1993.

Joint Statement of Answer filed by Respondents Waddell & Reed, Inc. and DeBorah Stanford on: November 2, 1993. Respondent, Waddell & Reed, Inc.'s Submission Agreement signed on: October 28, 1993. Respondent, DeBorah Stanford's Submission Agreement signed on: October 18, 1993.

HEARING INFORMATION

Hearing dates: May 12, 1994 for two (2) sessions;
May 13, 1994 for one (1) session.

Hearing Location: Chicago, Illinois.

CASE SUMMARY

Claimant Alice Wood ("Wood") set forth three counts against Respondents DeBorah Stanford ("Stanford") and Waddell & Reed, Inc. ("Waddell") in her Statement of Claim:

Count I: Wood alleged that Stanford represented and stated to her that it would be in Wood's best financial interest to terminate her retirement investment accounts with Kemper and Jackson National, and transfer and invest those funds in United Income Funds, Inc., a high yield, high risk investment and invest in Individual Retirement Accounts sold through Waddell & Reed Financial Services. Wood further alleged that Stanford advised the investment was suitable for her and represented that the funds could be refunded and reinstated with Kemper and Jackson National without penalty or any charges. Finally, Wood alleged that in so doing all of the above, Stanford and Waddell breached their fiduciary duty to Wood through self-dealing, accepting secret profits, failing to perform as agreed and inducing Wood to purchase unsuitable investments.

Count II: Wood alleged that Stanford's breach of fiduciary duty against Wood constitutes constructive fraud and negligent misrepresentation.

Count III: Wood alleged that Stanford was careless and negligent of one or more of the following acts: 1. failed to provide a complete description and explanation of the products recommended to Wood; 2. failed to inform Wood of certain charges, fees and costs; 3. failed to terminate all investment programs on January 27, 1992 as requested; 4. recommended an unsuitable investment; 5. recommended an unsuitable investment which resulted in the assessment of fees and costs against Wood's accounts.

Respondents Stanford and Waddell generally denied the allegations set forth in the Statement of Claim. Stanford and Waddell stated in their answer that Wood elected to transfer funds from Kemper and Jackson National to Waddell & Reed. Stanford and Waddell further stated that United Income Fund is a suitable investment for Wood and was a suitable recommendation as the fund enjoyed a solid performance record and is well rated by various services. Stanford and Waddell also stated that Wood was advised of material aspects of the investment including receiving the current prospectus and charges attendant to the transfer.

RELIEF REQUESTED

Claimant requested compensatory damages in an amount in excess of \$2,090.45, plus interest, costs and attorney's fees for Count I; compensatory and punitive damages in the amount of \$5000, plus interest, costs and attorney's fees for Count II; compensatory and punitive damages in the amount of \$5000, plus interest, costs, and attorney's fees for Count III.

Respondents requested that the Statement of Claim be dismissed.

OTHER ISSUES CONSIDERED & DECIDED

The claimant initially named Waddell & Reed Financial Services as a respondent. Waddell & Reed Financial Services is not a member of the NASD, did not voluntarily submit to arbitration, and therefore is not named as a respondent in the arbitration.

At the hearing, counsel for Claimant made a Motion To Amend the Claim to add Waddell & Reed, Inc. as a named respondent. Counsel for respondent made no objection. The arbitrator granted the request to amend and Waddell & Reed, Inc. was added as a respondent.

The parties have agreed that the Award in this matter may be executed by 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. Count I of Claimant's Statement of Claim is denied;
2. Count II of Claimant's Statement of Claim is denied;
3. Count III of Claimant's Statement of Claim is granted. Respondent's DeBorah Stanford and Waddell & Reed, Inc. shall be and hereby are, jointly and severally liable for, and shall pay to the Claimant, Alice Wood, the amount of \$1000;
4. Each of the parties shall bear their own costs and expenses, including attorney's fees, other than those specifically enumerated for herein.

FORUM FEES

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

3 hearing sessions x \$200 = \$600

Pursuant to Section 43(c) of the Code, the NASD shall retain the nonrefundable filing fee in the amount of \$100, and shall retain the hearing session deposit in the amount of \$300 previously paid to the NASD by Claimants.

Respondents DeBorah Stanford and Waddell & Reed, Inc. shall be and hereby are, jointly and severally liable for, and shall reimburse to the Claimant, Alice Wood, the amount of \$300 which represents the sum Wood previously deposited with the NASD as her

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hearing session deposit.

Respondents DeBorah Stanford and Waddell & Reed, Inc. shall also be jointly and severally liable for, and shall pay to the NASD, the amount of \$300 which represents the additional forum fees.

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

By The Arbitrator:

Dated:

5-18-94

s/s John W. Jerak, Esq
John W. Jerak, Esq.
Presiding, Public Arbitrator

Date Award Served By The NASD: 5-20-94