

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

**NATIONAL ASSOCIATION OF SECURITIES DEALERS**

**In the Matter of the Arbitration Between**

**Name of Claimants**

**Bonita R. Wanous, Severin Wanous & S.A.  
Wanous Painting, Inc. Profit Sharing Plan & Trust**

**94-00293**

**Name of Respondents**

**New England Securities  
John R. Walter**

**Representation of Parties**

**Claimants were represented at the hearing by Kevin D. Hoffman, Esq., Minneapolis, Minnesota.**

**Respondents were represented at the hearing by Paul R. Smith, Esq. of Austin & Abrams, Minneapolis, Minnesota.**

**Case Information**

**The Statement of Claim was filed on January 24, 1994. The Amended Statement of Claim was filed on April 11, 1994. Uniform Submission Agreements were signed on January 3, 1994 by Bonita Wanous, Severin Wanous, and Severin Wanous as Trustee for the S.A. Wanous Painting, Inc. Profit Sharing Plan & Trust.**

**The joint Statement of Answer was filed on April 4, 1994. Uniform Submission Agreement was signed on April 4, 1994 by Michael S. Toland on behalf of New England Securities. Uniform Submission Agreement was signed on March 31, 1994 by John Walter.**

**Hearing Information**

**The hearing was held on October 25, 1994 for two (2) sessions, and on December 2, 1994 for two (2) sessions, and on March 7, 1995 for two (2) sessions for a total of six (6) hearing sessions.**

**Case Summary**

**Claimants alleged in their Amended Statement of Claim that Respondents New England and Walter, placed Claimants' monies in illiquid and high-risk real estate, gas and oil, and equipment leasing limited partnerships. Claimants also alleged that as a result of the speculative,**

unsuitable, and improper trading in their accounts, they have lost over \$180,000.00.

Claimants alleged that Walter purchased the following limited partnerships for the Plan & Trusts Retirement Fund: American Income 8 L.p., New England Life Pension Properties V L.p., American Income Partners III-D L.p., New England Life Pension Properties III L.p., Copley Realty Income Partners 4 L.p.

The following limited partnerships were purchased for Severin Wanous IRA and Bonita Wanous IRA: Preferred Properties Fund '81 L.p., Balcor Pension Investors II L.p., New England Life Pension Properties L.p., HCW Institutional Oil and Gas Income Program L.p., Balcor Pension Investors VI, New England Life Pension Properties IV L.p., American Income 8 L.p., New England Life Pension Properties III L.p.

The following limited partnerships were purchased for Severin & Bonita Wanous' joint account: Balcor Realty Investors I. p. 82, Balcor Equity Properties XII, Caryle Real Estate L.p. XIV.

Respondents stated in their Answer that they deny the allegations contained in the Statement of Claim. Respondents alleged that each investment made in claimant's accounts were discussed and approved by them.

#### Relief Requested

Claimants requested compensatory damages of over \$180,000.00; punitive damages, attorney's fees, interest, costs, disbursements, expenses and such other relief as the panel deems just and equitable.

Respondents requested that claimants take nothing, and that they be granted their costs and such other relief as deemed proper.

#### Other Issues Considered and Decided

The parties present at the hearing 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 original remains 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. Respondents, New England Securities, Inc. and John Walter, shall be and hereby are jointly and severally liable for, and shall pay to the claimants as follows:**

**a. Fifty Six Thousand, Seven Hundred Eighty Eight Dollars and No Cents (\$56,788.00) to Severin and Bonita Wanous;**

**b. Twenty Thousand, Two Hundred Eighty Two Dollars and No Cents (\$20,282.00) to distribution accounts within the S.A. Wanous Painting Inc. Profit Sharing Plan and Trust;**

**c. Seven Thousand, Three Hundred Eighty Two Dollars and No Cents (\$7,382.00) to distribution account within the Severin Wanous IRA plan;**

**d. Seven Thousand, Eight Hundred Forty Dollars and No Cents (\$7,840.00) to distribution account within the Bonita Wanous IRA plan;**

**2. Claimants, Bonita Wanous, Severin Wanous & S.A. Wanous Painting, Inc. Profit Sharing Plan & Trust, shall transfer partnership units held in the four accounts to Respondents New England Securities and John R. Walter;**

**3. Respondents, New England Securities, Inc. and John Walter, shall be and hereby are jointly and severally liable for, and shall pay to the Claimants and their attorney, attorney's fees in the sum of Twenty Five Thousand Dollars and No Cents (\$25,000.00);**

**4. Respondents, New England Securities, Inc. and John Walter, shall be and hereby are jointly and severally liable for, and shall pay to the Claimants, costs in the amount of Ten Thousand Dollars (\$10,000.00) payable to the claimants and their attorney;**

**5. Claimants request for punitive damages is denied;**

**6. Claimants request for interest is denied;**

**7. Each of the parties shall bear their own expenses, other than those specifically enumerated herein.**

**NASD Award 94-00293**

**Page 4 of 4**

### Bottom Fees

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

**six hearing sessions X \$400 = \$2400 minus \$400 = net \$2000 due to the NASD.**

**Pursuant to Section 43(c) of the Code of Arbitration, the NASD shall retain the nonrefundable filing fee in the amount of \$120, and shall retain the hearing session deposit in the amount of \$400 previously paid to the NASD by the Claimants.**

The additional forum fees in the amount of \$2000 are assessed against Respondents, New England Securities and John Walters, jointly and severally. The additional forum fees assessed by the panel are payable to the National Association of Securities Dealers, Inc.

**By The Arbitration Panel:**

**Dated:**

**April 21, 1995**

**s/s Janice K. Frankman, Esq.**  
**Janice K. Frankman, Esq.**  
**Presiding, Public Arbitrator**

**April 21, 1995**

s/s James P. Trainor  
James P. Trainor  
Public Arbitrator

**April 21, 1995**

**s/s David M. Ginter**  
**David M. Ginter**  
**Industry Arbitrator**

**Date Award Served By The NASD: May 2, 1995**