

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Wheat, First Securities, Inc.

94-00834

Name of Respondent

Melbis Development Corp.

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on March 4, 1994, Claimant Wheat, First Securities, Inc. ("Claimant"), alleged that Respondent Melbis Development Corp. ("Respondent"), failed to pay an unsecured debit arising from several checks drawn against its margin account held with Claimant. Claimant further alleged that Respondent agreed to arbitrate any disputes which might arise when it opened the margin account. Claimant contended that Everett J. Cook ("Cook") deposited approximately \$155,000.00 in the form of checks drawn against a third party and payable to Respondent. Claimant further contended Cook was permitted to write checks against the account prior to its learning that the \$155,000.00 deposit was not honored. Claimant maintained that as a result of the above, it has suffered a loss for which the Respondent should be held liable.

Respondent Melbis Development Corp., failed to file a Statement of Answer to the Statement of Claim.

RELIEF REQUESTED

Claimant Wheat, First Securities, requested \$9,900.00 in actual damages plus costs.

Respondent Melbis Development Corp., failed to a Statement of Answer to the Statement of Claim.

OTHER ISSUES CONSIDERED AND DECIDED

In accordance with Section 13 of the NASD Code of Arbitration Procedure, the Respondent Melbis Development Corp., was sent the Statement of Claim through regular mail and it was not returned

Pursuant to the by-laws of the NASD, the arbitrator determined that the Respondent Melbis Development Corp., has notice of the claim and is 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 NASD, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Robert C. Devlin, Esq., was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on February 28, 1994, and not by the Respondent as is required by Sections 12 and 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. The Respondent Melbis Development Corp., is liable and shall pay to the Claimant Wheat, First Securities, Inc., \$9,900.00 in actual damages.
2. The parties shall bear their respective costs.
3. The \$575.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant shall be retained by the NASD, Inc. The Respondent Melbis Development Corp., shall pay to the Claimant Wheat, First Securities, Inc., \$575.00 as reimbursement of the filing fee.

AFFIRMATION

I, **ROBERT C. DEVLIN, 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.


Robert C. Devlin, Esq.

DATE OF DECISION: March 19, 1996