

**NATIONAL ASSOCIATION OF SECURITIES DEALERS  
AWARD**

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In the Matter of the Arbitration Between

JOSEPH FIERLING AND ELLEN FIERLING,

Claimants,

v.

WEDBUSH MORGAN SECURITIES, INC.,  
AND RONALD RICE,

NASD No. 94-2327

Respondents.

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***Representation***

For Claimant: John Bender, Esq. of Weiss, Jensen, Ellis & Botteri, Seattle, Washington

For Respondent: Thaddeus Paul of Keesal Young & Logan of Seattle, Washington

***Case Information***

Statement of Claim filed: June 2, 1994

Claimant's Submission Agreement signed: June 6, 1994

Statement of Answer filed on: August 30, 1994

Respondents' Submission Agreement signed on: Wedbush Morgan Securities - August 30, 1994.  
Respondent Ronald Rice did not file a Submission Agreement but did file an Answer and  
appeared at the hearing and is subject to National Association of Securities Dealers, Inc. (NASD)  
jurisdiction in accordance with NASD Code of Arbitration Procedure Section 12.  
Mr. Rice also agreed to submit to the terms and conditions of the Uniform Submission  
Agreement.

***Hearing Information***

Prehearing Conference Date(s)/Sessions: None

Hearing Date/Sessions: March 17, 1995/one

Hearing Location: Seattle, Washington

### ***Case Summary***

Claimant alleged:

Violation of Washington Securities Act, RCW 21.100 *et seq.* for rescission, actual damages and attorneys fees regarding transactions in Ramtek Corporation convertible debentures (Ramtec) and Belmac Corporation stock (Belmac). Claimants are an elderly couple who subsist on Social Security. Respondents misrepresented the quality and value of Ramtec and Belmac, which were unsuitable for Claimants. Respondents failed to properly disclose material information regarding the risks inherent in these securities.

Respondents denied all substantive allegations of wrongdoing and alleged:

Claimants opened their account in 1986 with an investment objective of long-term growth, which continued until 1989. Full disclosure was made to the Claimants about the investments, with Belmac recommended in light of the Fierlings' interest in capital gains. The Ramtec bonds were recommended because they had no senior debt, and because it offered significant opportunity for capital gains on the common stock at conversion.

### ***Relief Requested***

Claimant requested:

1. Rescission of the Ramtek transaction, for an amount of \$2,400;
2. Rescission of the Belmac transaction, for an amount of \$3,475.12;
3. Attorney's fees.

### ***Other Issues Considered and Decided***

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.

Claimant's motion to prohibit Mr. Rice's testimony relating to conversations with Mr. Fierling, who is deceased, was withdrawn after the chairperson ruled that iether both parties would be allowed to cite conversations with Mr. Fierling or neither would.

### ***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. Each and every claim regarding the Belmac transaction is denied;
2. The July 1, 1988 purchase of Ramtek is rescinded. Claimant will transfer the security to Wedbush Morgan; Respondent are jointly and severally liable for and shall pay Claimants \$2,400, plus interest in the amount of \$1,637.01;
3. Respondents are jointly and severally liable for and shall pay Claimants attorney's fees of \$1,500 pursuant to the authority of RCW 21.20.430 (1).
4. The parties shall each bear their respective costs.

### ***Other Costs***

None.

### ***Forum Fees***

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

Respondents, jointly and severally, for \$400,

calculated as follows: two hearing sessions at \$200/session.

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

### ***Arbitration Panel***

***Name***

***Public/Industry***

Frederic Dorkin

Public



Frederic Dorkin