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N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Buddy G. Harp and Loretta M. Harp

NASD Case No.
95-00713

Name of Respondents

Wheat First Butcher Singer, Inc.

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REPRESENTATION

Claimants appeared pro se.

For Respondent appeared, David Shuford, Esq. from the law firm of LeClair Reign, located in Richmond, Virginia.

CASE INFORMATION

Statement of Claim filed: February 10, 1995.

Claimant's Submission Agreement signed on: February 7, 1995

Statement of Answer filed by Respondent, Wheat First Butcher Singer, Inc. on:

Respondent, Wheat First Butcher Singer, Inc.'s Submission Agreement signed on: April 28, 1995

HEARING INFORMATION

Hearing Date/Sessions: April 22, 1996 (1 Session)

Hearing Location: Radisson Plaza Hotel
Raleigh, N.C.

CASE SUMMARY

Claimants alleged that as a result of an investment in the Nuveen N.C. Premium Income Muni Fund ("Nuveen"), which was recommended by Wheat First Butcher Singer, Inc. ("Wheat First") broker A. Andrew Culpepper ("Culpepper"), they incurred losses in their account. Claimants alleged Culpepper failed to disclose material information to Claimants, and failed to advise Claimant of the possibility that the recommended investment could be inconsistent with Claimants stated investment objectives.

Specifically, Claimants alleged that in September 1994 they sold their home and planned to use the

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proceeds to build a new home. Claimants alleged that rather than generate taxable income they desired to place the sale proceeds in a tax free investment which could be easily liquidated within three to six months in order to build their house.

Claimants alleged that on October 4, 1994 they met with Culpepper and informed him of their desire to use the sale proceeds to build a house, to have easy access to the funds, and not to incur any federal or state taxes on the proceeds while they were invested.

Claimants alleged that in response to their request Culpepper recommended Nuveen and stated that the shares could be sold as needed, and checks could be written on Claimants, Wheat First account. In addition, Claimants alleged Culpepper stated that Nuveen would pay 5 % interest, tax free, which was the equivalent of 8% taxable income and that it was a load fund which carried a commission of 1 % to both buy and sell the shares.

Claimants alleged that they authorized Culpepper to invest \$100,000 in Nuveen, and on October 7, 1994 received a confirmation for the purchase of 7,840 shares at 12.625 per share; settlement date being October 13, 1996. Claimant alleged that they became concerned about the investment prior to the settlement date and asked Culpepper if they were obligated to make the purchase since they had not signed any documents authorizing the trade. Claimant alleged Culpepper stated that they were so obligated and that he would relinquish his commission and sell Nuveen once it reached Claimants purchase price of 12.625 per share.

Claimants further alleged that by November 15, 1994 Nuveen had dropped to 10 3/8 per share. Claimant alleged that in response to the decline they wrote a letter to Bill Ropes, Regional Manager of Wheat First. Claimant alleged that in response, Wheat First stated they took no responsibility and suggested that if Claimants did not want "to bear such risk," Claimants should sell their shares. Claimants alleged that they sold their shares at \$11 per share and received \$88,676.00.

Finally, Claimants alleged that if Culpepper had informed them of the possibility of such losses, so quickly, Claimants would have simply left their funds in a money market account. Claimants alleged since Nuveen bore such risk, it was unsuitable for Claimant.

Respondent maintained Claimants had the market risks explained to them, willingly accepted those risks, but suffered "buyers remorse" after they made their investment. Specifically, Respondent maintained that Claimants informed Culpepper they had approximately \$100,000 to invest, with which they were planning to buying a house, and that they wanted a short term investment that would give them access to their money quickly.

-Respondent maintained Culpepper recommended Treasury Bonds; however, Mr. Harp rejected this recommendation because Claimants wanted a higher yield investment with a tax free basis. Respondent maintained that Culpepper then suggested Nuveen, which met Claimants objectives, but warned the Claimants that bond funds, such as Nuveen, were subject market speculation and at the time of redemption the value of Nuveen could be higher or lower then the price paid by Claimants.

Respondents maintained that Claimants decided to buy Nuveen notwithstanding the stated risks; however, began to experience "buyers remorse" days after the purchase. Respondent alleged that Claimants contacted Culpepper to ask whether they were obligated to pay for their purchase, and upon being informed that they were obligated, asked if there was any way they could get out of Nuveen because of the decline in price.

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Respondent maintained that Culpepper informed the Claimants that they could sell Nuveen at the current market price (which would result in a \$2,700 loss) and explained he would wave the commission on the purchase and the sale. Respondent maintained that the Claimants elected not to sell Nuveen at this point but decided to retain their investment in hopes of a price recovery. Further, Respondents maintained that Nuveen continued to decline in price and on December 27, 1994 the Claimants directed the sale of Nuveen resulting in a \$14,000 loss.

RELIEF REQUESTED

Claimants requested \$11,293.39 in lost principal, plus \$936.71 representing 4.5 % interest on their initial investment.

Respondents requested that all claims be dismissed in their entirety.

OTHER ISSUES CONSIDERED & 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.

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:

All claims against Wheat-First Butcher Singer, Inc. are hereby denied;

2. Parties are to bear their own costs, including attorneys fees; and,
3. All other requests for relief are denied.

FORUM FEES

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

Forum Fees: **\$800.00** (1 Session X \$300)

Claimants, Loretta and Buddy Harp are assessed the sum of \$300.00 representing the total forum fees, less \$300.00 previously paid, leaving \$0.00 due.

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

ARBITRATOR'S SIGNATURE

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Wayne Parker
Wayne Parker

Date of Decision: July 30, 1996