

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Barbara D. Stewart

96-C0891

Name of Respondents

Wheat First Securities, Inc.
Robert Weitzner

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on February 28, 1996, Claimant Barbara D. Stewart ("Claimant"), who appeared Pro Se, alleged that Respondents Wheat First Securities, Inc. ("WFS") and Robert Weitzner ("Weitzner") incorrectly informed her that she had no unqualified funds available in her account. Claimant further alleged that the broker error resulted in financial hardship because she was forced to withdraw emergency money from her IRA account which she needed to live on while she took care of her mother. Claimant asserted that in fact, there were non-qualified funds available in her account. Claimant further asserted that she incurred \$619.00 in Federal and New York taxes and penalties plus \$100.00 for an accountant to straighten out the tax penalties. Claimant also asserted that due to the wrongdoing of the Respondents, she suffered damages for which the Respondents should be held liable.

Respondents Wheat First Securities, Inc. ("WFS") and Robert Weitzner (Weitzner) through their representative and in-house counsel, John M. Ivan, Esq., maintained that Claimant made a request for immediate funds to be issued to her and Respondents promptly effected what is a routine operational matter. Respondents further maintained that Claimant signed a form which acknowledged her responsibility for the tax consequences which she suffered. Respondents also maintained that Weitzner was not asked for any advice regarding the consequences or considerations in choosing accounts to fund Claimant's withdrawal but, simply accommodated her request for immediate funds. Respondents contended that the unqualified funds were in fact held away from the firm at a mutual fund for which Claimant was receiving statements directly. Respondents further contended that Claimant's statement reflecting her non-qualified assets were delivered to another firm and the special distribution she signed indicated that she was taking a special premature distribution from her IRA. Respondents maintained that they committed no wrongdoing and requested that the claims against them be dismissed.

RELIEF REQUESTED

Claimant Barbara D. Stewart, requested \$749.00 in actual damages.

Respondents Wheat First Securities, Inc. and Robert Weitzner, requested that the claims of the Claimant be dismissed.

AWARD

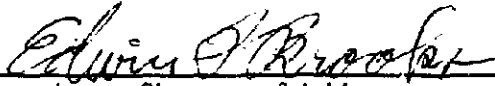
Pursuant to Section 13 of the NASD, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Edwin P. Brooks, Esq., was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant Barbara D. Stewart on February 21, 1996 and by the Respondents Wheat First Securities, Inc. and Robert Weitzner on April 12, 1996.

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 claims of the Claimant Barbara D. Stewart against Respondents Wheat First Securities Inc. and Robert Weitzner, are dismissed in their entirety.
2. The parties shall bear their respective costs.
3. The \$30.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant Barbara D. Stewart shall be retained by the NASD, Inc.

AFFIRMATION

I, **Edwin P. Brooks**, 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.

A handwritten signature in cursive script, reading "Edwin P. Brooks", is written over a horizontal line.

Signature of Arbitrator

DATE OF DECISION: August 30, 1996