

N.A.S.D. AWARD

NASD Regulation, Inc. Office of Dispute Resolution

In the Matter of the Arbitration Between

Name of Claimant

J. Craig Yacoe

97-00119

Name of Respondent

Wheat First Securities, Inc.

REPRESENTATION

Claimant J. Craig Yacoe ("Claimant") appeared *pro se*.

Respondent Wheat First Securities, Inc. ("Respondent") was represented by Stephen T. Perkins, Esq., LeClair Ryan, Richmond, VA.

CASE INFORMATION

The Statement of Claim was filed January 9, 1997.

Claimant's Uniform Submission Agreement was signed January 7, 1997.

Respondent's Statement of Answer was received October 15, 1997.

Respondent's Uniform Submission Agreement was signed October 20, 1997.

HEARING INFORMATION

Prehearing Date/Sessions: December 4, 1997/one session

Hearing Date/Sessions: March 9, 1998/one session

Hearing Location: NASD Regulation District Office
Philadelphia, PA

CASE SUMMARY

Claimant alleged that Respondent, through the use of misrepresentations and omissions of material information, induced him to authorize transactions which were unsuitable for Claimant. Claimant alleged that he had a conservative stock and bond account with Respondent for many years but from 1988 until 1993 Respondent began persuading him to take funds from the conservative securities and use the assets to purchase riskier investments. Claimant further alleged that Respondent failed to inform him of the risk involved in these securities and therefore, Claimant's portfolio declined in value.

Respondent categorically denied all allegations of wrong-doing as asserted by Claimant. Respondent maintained, among other things, that Claimant's account was properly serviced at all times. Respondent maintained that Claimant purchased unit investment trusts and not junk bonds, that these unit investment trusts were conservative and suitable investments, that no fraud was committed, and that no misleading statements were made to Claimant. Respondent further maintained that Claimant's claims are time-barred. Finally, Respondent maintained that Claimant did not lose any money on the disputed investments, but instead showed a net gain on each investment, when the initial cost of the investment was compared to interest payments, repayments of principal, and accrued costs incurred when Claimant purchase the investments.

RELIEF REQUESTED

Claimant requested \$31,341.00 plus interest.

Respondent requested that the Statement of Claim be dismissed in its entirety and that all costs and expenses, including attorney's fees, be assessed to Claimant.

OTHER ISSUES CONSIDERED & DECIDED

The parties have agreed that a handwritten, signed Award may be entered. In this case, the parties have agreed to receive a conformed copy of the Award while the original remains on file with the NASD.

The arbitrator considered Respondent's Motion to Dismiss and Claimant's Response thereto and denied the Motion.

AWARD

After considering the pleadings, the testimony and the evidence presented at the hearing, the undersigned arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

1. That the Statement of Claim is denied in its entirety as Claimant did not prove his allegations or his damages; and
2. That each party is to bear its own costs and expenses; and
3. That any and all relief not specifically addressed herein is denied.

OTHER COSTS

Pursuant to Rule 10333 of the Code of Arbitration Procedure ("Code") Respondent is assessed a member surcharge of \$200.00 which has been paid in full.

FORUM FEES

Pursuant to Rule 10332(c) of the Code, the following Forum Fees are assessed:

1 Prehearing x \$300.00 = \$300.00

1 Hearing session x \$400.00 = \$400.00

Total Forum Fees \$700.00

Forum Fees are assessed to Claimant. Claimant shall receive a credit for the \$400.00 hearing session deposit previously submitted to the NASD Regulation, leaving a net assessment due from Claimant of \$300.00.

Fees are payable to the NASD Regulation, Inc. Office of Dispute Resolution.

DATE

ARBITRATOR'S SIGNATURE

3/27/98

Joseph L. Farrell, Jr.
Joseph L. Farrell, Jr., Presiding
Public Arbitrator

Date Decision Served by NASD Regulation:

March 27, 1998