
Award
NASD Dispute Resolution, Inc.

In the Matter of the Arbitration Between:

Name of Claimant:

Thomas A. Daly

Case No: 00-4226

Names of Respondents:

Dean Witter Reynolds, Inc. and
Howard J. Neff

Hearing Site: Boca Raton, Florida

REPRESENTATION OF PARTIES

For Thomas A. Daly ("Daly"), hereinafter referred to as "Claimant": Tim B. Wright, Esq., Stuart, Florida.

For Dean Witter Reynolds, Inc. ("DW") and Howard J. Neff ("Neff"), hereinafter referred to as "Respondents": Allison B. Doneghey, Esq., Sarasota, Florida.

CASE INFORMATION

Statement of Claim filed on or about September 26, 2000.

Claimant Daly's Uniform Submission Agreement was signed on September 18, 2000.

Respondents DW and Neff filed a Statement of Answer on or about November 28, 2000.

Respondents did not sign Uniform Submission Agreements.

CASE SUMMARY

Claimant alleged violation of Section 517.301 of Florida Statutes, breach of contract, negligent misrepresentation, breach of fiduciary duty, and, as it relates to Respondent DW, negligent supervision. Furthermore, Claimant alleged substantial financial loss in connection with the improper removal, manipulation, and mishandling of unspecified securities products and other monies derived from or with Claimant's account with Respondent DW.

Respondents DW and Neff denied the allegations of wrongdoing set forth in the Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

Claimant requested compensatory damages in the amount of \$100,000.00, interest, attorneys' fees pursuant to Section 517.211 of Florida Statutes, costs and further relief as the undersigned arbitrators (the "Panel"), deemed necessary or appropriate.

Respondents DW and Neff requested that the Statement of Claim be dismissed in its entirety.

OTHER ISSUES CONSIDERED AND DECIDED

1. Respondents DW and Neff did not file with NASD Dispute Resolution, Inc. ("NASDR") properly executed submissions to arbitration but are required to submit to arbitration pursuant to the NASD Code of Arbitration Procedure (the "Code"), and having answered the claim, appeared and testified at the hearing, are bound by the determination of the Panel on all issues submitted.
2. 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 original remains on file with NASDR.

AWARD

After considering the pleadings, the testimony and evidence presented at the hearing, and the post-hearing submissions (if any), the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondent DW is hereby found liable and shall pay to Claimant Daly Ten Thousand Two-Hundred Fifty Dollars and No Cents (\$10,250.00) in compensatory damages; payment of interest is specifically excluded. The award of such damages is granted to Claimant based on his assertion of negligent misrepresentation against Respondent DW.
2. The Panel found no liability on Claimant's assertion against Respondents for fraud or violation of Section 517.301 of Florida Statutes.
3. The Panel found no liability against Respondent Neff for any of the assertions made by Claimant in his Statement of Claim. As such, all claims against Respondent Neff are denied.
4. Any and all requests for relief not specifically addressed herein are denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASDR will retain or collect the non-refundable filing fees for each claim:

Initial claim filing fee = \$ 225.00

Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm that employed the associated persons at the time of the events giving rise to the dispute. In this matter, the member firm is a party.

Member Surcharge = \$1,000.00

Pre-Hearing Process Fee = \$ 600.00

Hearing Processing Fee = \$1,500.00

Adjournment Fees

There were no adjournments requested during these proceedings:

Forum Fees and Assessments

The Panel has the authority to assess forum fees for each hearing session conducted. A hearing session is any meeting between the parties and one or more arbitrator, including a pre-hearing conference with one or more arbitrator, that lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) Pre-Hearing Session with the Panel x \$750.00 = \$ 750.00

Pre-Hearing conference date: July 16, 2001 1 session

One (1) Hearing Session with the Panel x \$750.00 = \$ 750.00

Hearing Date: January 7, 2002 1 session

Total Forum Fees = \$1,500.00

The Panel has assessed the total forum fees of \$1,500.00 to Respondent DW.

Administrative Costs

Administrative costs are expenses incurred due to a request by a party for special services including, but not limited to, additional copies of arbitrator awards beyond those provided without charge, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

There were no administrative costs incurred during these proceedings.

FEE SUMMARY

Claimant be and hereby is solely liable for:

<u>Filing Fee</u>	= \$ 225.00
<u>Total Fees</u>	= \$ 225.00
<u>Less payments</u>	= \$ 225.00
Balance Due NASD Dispute Resolution, Inc.	= \$.00

Respondent DW be and hereby is solely liable for:

<u>Member Fees</u>	= \$3,100.00
<u>Forum Fees</u>	= \$1,500.00
<u>Total Fees</u>	= \$4,600.00
<u>Less payments</u>	= \$3,100.00
Balance Due NASD Dispute Resolution, Inc.	= \$1,500.00

All balances are payable to NASD Dispute Resolution, Inc. and are due immediately upon receipt of the Award by the parties pursuant to Rule 10330(g) of the Code.

CONCURRING ARBITRATORS

Benita Sirkin	-	Public Arbitrator, Presiding Chair
Adam B. Cohen, Esq.	-	Industry Arbitrator
Leon H. Attias	-	Public Arbitrator

/s/
Benita Sirkin
Public Arbitrator, Presiding Chair

February 5, 2002
Signature Date

/s/
Adam B. Cohen
Industry Arbitrator

February 6, 2002
Signature Date

/s/
Leon H. Attias
Public Arbitrator

February 6, 2002
Signature Date

February 7, 2002
Date of Service (For NASD-Dispute Resolution office use only)

NASD Dispute Resolution, Inc.
 Arbitration No. 00-4126
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FEE SUMMARY

Claimant be and hereby is solely liable for:

<u>Filing Fee</u>	= \$ 225.00
<u>Total Fees</u>	= \$ 225.00
<u>Less payments</u>	= \$ 225.00
<u>Balance Due NASD Dispute Resolution, Inc.</u>	= \$.00

Respondent DW be and hereby is solely liable for:

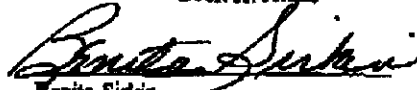
<u>Member Fees</u>	= \$3,100.00
<u>Forum Fees</u>	= \$1,500.00
<u>Total Fees</u>	= \$4,600.00
<u>Less payments</u>	= \$3,100.00
<u>Balance Due NASD Dispute Resolution, Inc.</u>	= \$1,500.00

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Benita Sirkln
 Adam B. Cohen, Esq.
 Leon H. Attias

Public Arbitrator, Presiding Chair
 Industry Arbitrator
 Public Arbitrator


 Benita Sirkln
 Public Arbitrator, Presiding Chair

2/5 2002
 Signature Date

Adam B. Cohen
 Industry Arbitrator

2002
 Signature Date

Leon H. Attias
 Public Arbitrator

2002
 Signature Date

February 2002
 Date of Service (For NASD-Dispute Resolution office use only)

FEE SUMMARY

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Adam B. Cohen, Esq.	-	Industry Arbitrator
Leon H. Attias	-	Public Arbitrator

Benita Sirkin
Public Arbitrator, Presiding Chair

_____, 2002
Signature Date

Adam B. Cohen
Industry Arbitrator

2/6, 2002
Signature Date

Leon H. Attias
Public Arbitrator

_____, 2002
Signature Date

February, 2002
Date of Service (For NASD-Dispute Resolution office use only)

Benita Sirkin
Adam B. Cohen, Esq.
Leon H. Attias

Public Arbitrator, Presiding Chair
Industry Arbitrator
Public Arbitrator

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Benita Sirkin
Public Arbitrator, Presiding Chair

_____, 2002
Signature Date

Adam B. Cohen
Industry Arbitrator

_____, 2002
Signature Date


Leon H. Attias
Public Arbitrator

 6+, 2002
Signature Date

February, 2002
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