

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between)	
<u>Name of Claimant(s)</u>)	
Sally H. Kofman)	
)	
<u>Name of Respondent(s)</u>)	
Dean Witter Reynolds, Inc.)	
Robert R. Wachholder)	
)	
)	Case No. 89-03539

Heard before the members of the Arbitration Panel:

Casey W. Mills, Esq.
Arnold Sarrow
Edward S. Boslow III

CASE SUMMARY

This claims was filed with the NASD, Inc. on December 18, 1989. The hearing was conducted in Fort Lauderdale, Florida on September 13, 1990, with a total of two (2) sessions.

Claimant, Sally H. Kofman ("Kofman"), alleged that she was the residual beneficiary of a trust; that Respondents, Dean Witter Reynolds, Inc. ("DWR") and Robert R. Wachholder ("Wachholder"), sold a limited partnership to her deceased husband, James, for the trust of which he was guardian; that the limited partnership was a ponzi scheme paying the investor back his own money and pretending it was interest; that Respondents made misrepresentations of material facts; that even if not a ponzi scheme, the investment was inappropriate; and, that the investment has no current market value.

Respondents denied all allegations of wrongdoing and alleged that James Kofman was a professional accountant and a sophisticated investor; that he fully understood all aspects of the investment; that the investment was entirely suitable to meet his goals of high current income in the trust; that the investment fully satisfied the trust's investment objections of high current income; and, that the objection four years later is lacking in merit and is untimely.

RELIEF REQUESTED

Claimant requested damages in the amount of \$90,000.00, \$25,000.00 of which should be paid by Wachholder; RICO damages of \$270,000.00; punitive damages of \$810,000.00; and, \$25,000.00 in expenses and costs.

Respondents requested dismissal costs and attorney's fees.

AWARD

On September 13, 1990, the arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed by Claimant on November 28, 1989, and by Respondents on February 15, 1990. The arbitration panel, having considered the pleadings, the testimony, and the evidence presented at the hearing has determined in full and final resolution of the issues submitted for determination as follows:

1. 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, Inc.
2. Respondents, DWR and Wachholder, are found not liable to the Claimant and, therefore, all claims against them are hereby dismissed.
3. Claimant's requests for RICO damages, punitive damages, costs and expenses are denied.
4. Respondents' requests for costs and attorney's fees are denied.
5. Pursuant to Section 43 of the Code of Arbitration Procedure, Claimant is hereby assessed forum fees in the amount of Two Thousand and 00/100 (\$2,000.00) Dollars (\$1,000.00 x two sessions). The National Association of Securities Dealers, Inc. shall retain the One Thousand and 00/100 (\$1,000.00) Dollar filing fee and the One Hundred and 00/100 (\$100.00) Dollar postponement fee previously deposited by the Claimant in partial satisfaction thereof.
6. The parties shall each bear all other costs and expenses incurred by them in connection with this proceeding.

OTHER ISSUES

None.

ARBITRATORS CONCURRING

Casey W. Mills Esq., Arnold Sarrow and Edward S. Boslow III.

Received this 2nd day of October 1990.