

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between

Patricia A. Haney

Claimant(s)

and

Dean Witter Reynolds Inc.

Respondent(s)

CASE NO. 89-00865

CASE SUMMARY

In a claim filed with the NASD on or about March 21, 1985, Claimant, Patricia A. Haney ("Haney") alleged that Respondent, Dean Witter Reynolds Inc. ("Dean Witter") violated Section 10(b) of the Securities Exchange Act of 1934 and Rule 10-b-5 promulgated thereunder through the use of an unsuitable investment strategy for Haney's account. The alleged unsuitable investment strategy was writing covered calls on stocks in Haney's account. This activity was also alleged to violate Section 17(a)(2) of the Securities Act of 1933. Additionally, Haney alleged that Dean Witter breached its fiduciary duty owed her by failing to disclose the risks inherent in the trading strategy employed for the account and engaged in excessive trading for Haney's account in light of Haney's needs and investment objectives.

Dean Witter denied that the strategy was unsuitable. Dean Witter alleged that the strategy was begun by Haney's late husband and was suitable. Dean Witter denied that the account was a discretionary account or that the broker handling the account controlled the account. Dean Witter also denied that there was any fiduciary relationship between the parties. Additionally, Dean Witter asserted certain affirmative defenses, including but not limited to ratification, waiver, estoppel, assumption of risk and that the claims were barred under the applicable statute of limitations set forth in the Tennessee Securities Act.

RELIEF REQUESTED

Haney requested an award of damages in the amount proven at hearing, plus interest, costs and attorney's fees. Dean Witter requested dismissal of the claim.

AWARD

On Thursday, May 17, 1990 in Nashville, Tennessee, during a hearing lasting two (2) sessions, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed on May 1, 1989 by Claimant Patricia A. Haney, and on July 24, 1989 by Lloyd D. Anderson on behalf of Respondent Dean Witter Reynolds Inc.

The arbitration panel, having considered the pleadings, the testimony, and the evidence presented at the hearing, has decided in full and final resolution of the issues submitted for determination as follows:

1. Dean Witter is liable for and shall pay to Haney the sum of Seventy-Five Thousand Dollars and No Cents (\$75,000.00), without interest;
2. The parties shall each bear their respective costs and expenses including any attorney's fees incurred in this matter; and
3. The panel affirms waiver of the \$750.00 filing fee granted in favor of Claimant Patricia A. Haney pursuant to Section 43(b) of the Code of Arbitration Procedure, and assesses Dean Witter Reynolds Inc. \$1,500.00 as forum fees.

By the Panel

Dated: 6/5/90

/S/

Raymond Clift  
Raymond Clift  
Presiding Chair

Dated: \_\_\_\_\_

/S/

\_\_\_\_\_  
James Branum

Dated: \_\_\_\_\_

/S/

\_\_\_\_\_  
Thomas R. Barksdale

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By the Panel

Dated: \_\_\_\_\_

/S/

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Raymond Clift  
Presiding Chair

Dated: \_\_\_\_\_

/S/

\_\_\_\_\_  
James Branum

Dated: June 4, 1990

/S/

R. Thomas Barksdale  
R. Thomas R. Barksdale

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By the Panel

Dated: \_\_\_\_\_

/S/

\_\_\_\_\_  
Raymond Clift  
Presiding Chair

Dated: 6-7-90

/S/

James Branum  
James Branum

Dated: \_\_\_\_\_

/S/

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Thomas R. Barksdale