

**NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.**

In the Matter of the Arbitration Between

David Ferrari and  
Richard Ferrari

Claimants

vs.

Dean Witter Reynolds, Inc.  
Jack Hanley

Respondents

AWARD

NASD #89-02153

**SUMMARY OF ISSUES**

This case was filed with the National Association of Securities Dealers, Inc. ("NASD") on July 25, 1989. Claimants alleged Respondents breached their fiduciary duty by recommending unsuitable purchases of stock in Daxor Corporation ("Daxor"); made misrepresentations and omissions of material facts to the Claimants in connection with the purchase and sale of Daxor; failed to adequately supervise and monitor Claimants' accounts; engaged in a pattern of racketeering activity consisting of manipulation or and attempted manipulation of the market price of the thinly-traded, over-the-counter stock of Daxor; violated various industry rules and standards; violated federal and state securities laws; and committed fraud and deceit.

Respondents denied the allegations in their entirety and maintained that their recommendations were consistent with Claimants' expressed investment objectives. Respondents further maintained that Claimants were experienced investors with a pattern of speculative trading who understood the risks attendant with the investments they made; that neither Dean Witter nor Hanley exercised discretion in Claimants' accounts or refused to execute any order given from either Claimant; and that the losses now complained of were caused by market forces with which both Claimants had experience.

**DAMAGES AND RELIEF REQUESTED**

Claimants requested actual damages in the David Ferrari account of \$52,000 and in the Richard Ferrari account of \$12,000; lost profits of \$94,200; ten percent interest on the principal sum to date of \$22,000; ten percent interest on the lost profits to date of \$32,970; punitive damages; and treble damages and attorneys' fees under the authority provided by RICO violations.

Respondents requested dismissal of the claim.

### DAMAGES AND RELIEF AWARDED

On August 16, 1990, November 5, 1990, and April 17, 1991 a pre-hearing conference was held pursuant to Section 32 of the Code of Arbitration Procedure between counsel for the parties, the Chairman, and a NASD representative. Each pre-hearing conference lasted one session, for a cumulative total of three sessions.

On April 23, 24, 25, 1991 the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed by Claimants David Ferrari on August 24, 1989 and Richard Ferrari on September 7, 1989 and by Respondents Dean Witter Reynolds, Inc. on November 1, 1989 and Jack Hanley on October 11, 1989.

The hearing was conducted in San Francisco, California and lasted six (6) sessions. 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 as follows:

1. All claims asserted by Claimant David Ferrari are denied and dismissed.

2. Claimant Richard Ferrari is hereby awarded compensatory damages in the amount of Two Thousand Dollars and Zero Cents (\$2,000) and exemplary damages in the amount of One Thousand Dollars and Zero Cents (\$1,000) assessed solely against Respondent Dean Witter Reynolds, Inc. The Arbitrators determined that Dean Witter improperly executed the Daxor buy order placed by Richard Ferrari and failed to correct it, and thereby breached its duties and was recklessly indifferent to its obligations to Claimant.

and interest thereon in the amount of \$ 833.42.

3. All claims against Respondent Jack Hanley are dismissed.

4. The parties shall each bear their respective attorneys' fees.

5. In accordance with Section 43 of the NASD Code of Arbitration Procedure:

a. the NASD shall retain the \$750 filing fee previously deposited by the Claimants;

b. the NASD shall retain the \$750 postponement fee previously assessed and deposited by Claimants;

c. Respondent Dean Witter Reynolds, Inc. is hereby solely assessed the sum of \$1,500 representing the filing fee and postponement fee and shall reimburse Claimants directly;

d. Respondent Dean Witter Reynolds, Inc. is hereby solely assessed the sum of \$4,650 representing forum fees to be paid to the NASD directly. This assessment is based upon the calculation of three sessions for the pre-hearing conferences conducted, and six sessions for the arbitration hearing.

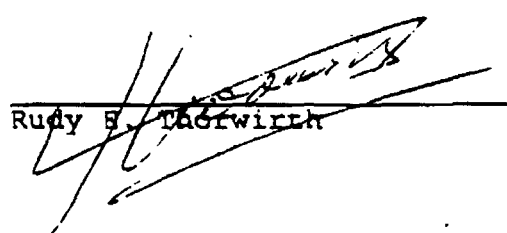
#### OTHER ISSUES

This case was originally filed with the NASD on July 25, 1989. Due to defects in the execution of the submission agreements, the Claim was not served until proper submission agreements were filed. The Statement of Claim was served on the Respondents by the NASD by letter dated September 27, 1989. The Claimants filed an Amended Statement of Claim with the Panel's permission on October 11, 1990, and Respondents filed an Answer to the Amended Claim with the Panel's permission on April 23, 1991.

The parties stipulated to the execution and service of the award in counterpart copies.

#### ARBITRATORS CONCURRING

DATE SERVED: 5/22/91

  
Rudy B. Tachwirth