

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant(s)

Herbert S. Olsen

89-02269

Name of Respondent(s)

Dean Witter & Co.
John Cleveland Jr.

Heard before:

Name	Public/Industry
Harry E. Jennings, Jr. _____	Public _____
Joseph C. Roberts _____	Public _____
Don Boehm _____	Industry _____

CASE SUMMARY

This matter was initiated by a Statement of Claim filed with the National Association of Securities Dealers, Inc. ("NASD") on August 14, 1989. Claimant alleged that, in connection with the purchase of stock, Respondents made unsuitable recommendations, misrepresentations, committed gross account mismanagement and failed to supervise. He alleged that such conduct constituted breaches of the contracts between Olsen and the Respondents, violated the fiduciary duty owed by all Respondents to Olsen, violated the rules of fair dealing and standards of practice mandated by the National Association of Securities Dealers and the New York Stock Exchange, and constituted reckless conduct warranting the imposition of punitive damages. Respondents asserted a motion to dismiss, alleging that all of Claimant's claims are barred by the statute of limitations. Respondents also alleged 1) that Olsen has failed to prove a suitability or breach of fiduciary duty claim, 2) that Olsen's claims are barred by the doctrines of waiver, laches, and estoppel, and 3) that Olsen assumed the risk of a stock decline, or alternatively was negligent.

RELIEF REQUESTED

Claimant prayed for judgment as follows: 1) for damages in the amount of \$112,740.98 or for such other amount as the panel determines, 2) for costs, 3) for interest at the statutory rate from the dates of the losses, 4) for reasonable attorney's fees as determined by the panel, and 5) for such other and further relief as the panel deems just and equitable. Respondents requested that Olsen's statement of claim be dismissed, that he take nothing thereby, and for such other and further relief as may be deemed appropriate.

AWARD

On February 14, 1991 in Seattle, Washington during a hearing lasting two sessions, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed by Claimant on July 13, 1989, by Larry R. Meyer on behalf of Dean Witter Reynolds Inc. on January 29, 1990 and by Respondent John Cleveland on January 29, 1990.

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

1. Each and every claim of Claimant is dismissed.
2. The parties shall each bear their respective costs including attorneys' fees.

FORUM FEES

In accordance with Section 43c of the NASD Code of Arbitration Procedure, the NASD shall retain the \$750 filing fee previously deposited by the Claimant [as an assessment of forum fees by the arbitrators].

Concurring Arbitrators Signatures

Harry E. Jennings, Jr.

Joseph C. Roberts



Don Boehm

Date of Decision: _____