

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

In the Matter of the Arbitration Between

Melvin Asch  
Doris Asch

Claimants

vs.

Dean Witter Reynolds, Inc.  
Steven L. Fusco  
Robert C. Honey

Respondents

AWARD

NASD NO. 89-02969

**SUMMARY OF ISSUES**

This case was filed with the National Association of Securities Dealers, Inc. ("NASD") on October 23, 1989. Claimants alleged: lack of suitability and unauthorized trading in the purchase of Greenwich Pharmaceuticals, Incorporated (hereinafter GRPI) securities.

Respondents denied all substantive allegations of the claim, alleging the following: claimant began unsolicited purchases of GRPI, full disclosure by respondents regarding trading on margin and the importance of diversification, that all purchases were authorized and/or ratified and accord and satisfaction. Respondents also alleged failure to mitigate damages.

Respondent Dean Witter Reynolds (hereinafter DWR) filed a counterclaim for an unsecured debit balance.

**DAMAGES AND RELIEF REQUESTED**

Claimant requested:

1. Compensatory damages for the sum of \$79,670.00 for the purchase of unsuitable securities; and
2. Compensatory damages for the sum of \$16,250.00 for unauthorized trading as amended at hearing.

Respondent DWR requested:

1. Compensatory damages of \$8,927.60; and
2. Interest in the amount of \$1,104.82.

**DAMAGES AND RELIEF AWARDED**

On January 24 and 25, 1991, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed by Claimants on September 29, 1989 and by Respondents DWR on December 5, 1989, by Fusco on November 27, 1989 and by Honey on January 17, 1990. The hearing was conducted in Los Angeles, California and lasted six sessions, including one pre-hearing session on January 18, 1991. 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. Respondents motions at the hearing to dismiss, with prejudice, the claim for damages based upon violations of the suitability requirements, and the action against respondent Robert C. Honey, were granted by the panel.

2. Respondents Dean Witter Reynolds and Steven L. Fusco are jointly and severally liable for and shall pay to claimants the sum of \$16,250.00 on the claim for unauthorized trading.

3. Claimants are jointly and severally liable for and shall pay to respondent Dean Witter Reynolds the sum of \$8,927.60 on the claim for unsecured debit balance.

4. Respondent Dean Witter Reynolds' counterclaim for interest is dismissed.

5. The parties shall each bear their respective costs including attorneys' fees.

6. In accordance with Section 43 of the NASD Code of Arbitration Procedure, the NASD shall retain the \$500.00 filing fee previously deposited by the Claimants as an assessment of forum fees by the arbitrators. In addition, Claimants are jointly and severally assessed additional forum fees of \$900.00, payable to the NASD, Inc. (for a total of \$1,400.00, including the \$500.00 filing fee previously deposited) and respondents DWR and Fusco are jointly and severally also assessed fees of \$1,400.00 representing charges for forum fees payable to the NASD, Inc.

ARBITRATORS CONCURRING

DATE SERVED: 03/12/91

  
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John Clevannone

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Ian L. Sitren

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Ronald J. Fox