

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between )

Name of Claimant(s) )

Janet M. Gill )

Name of Respondent(s) )

Dean Witter Reynolds, Inc. )  
Robert F. Finnigan )

89-03237

Heard before the Arbitrator:

Stephen A. LeClair, Esq.

CASE SUMMARY

This claim was filed with the NASD, Inc. on November 17, 1989. The hearing was conducted in Fort Lauderdale, Florida on August 28, 1990, with a total of two sessions.

Claimant, Janet M. Gill ("Gill"), alleged that Respondents, Dean Witter Reynolds, Inc. ("DWR"), and Robert F. Finnigan ("Finnigan"), made unauthorized transactions in Claimant's account by selling two mutual funds; purchasing another fund; then selling the third fund; and, purchasing a real estate investment trust.

Respondents denied all allegations of wrongdoing and alleged the affirmative defenses of suitability; authorization; failure to complain; waiver; ratification; lack of misrepresentation; assumption of risk; statute of limitations; market conditions and intervening causes; failure to mitigate; and, no breach of duty.

RELIEF REQUESTED

Claimant requested damages in the amount of \$10,541.00. Respondents requested dismissal and costs.

## AWARD

On August 28, 1990, the arbitrator heard the controversy between the parties as set forth in submissions to arbitration signed by Claimant on November 17, 1989, and by Respondents DWR on January 31, 1990, and Finnigan on February 1, 1990. The arbitrator, 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 are found not liable to the Claimant and, therefore, all claims against them are hereby dismissed.
2. Pursuant to Section 43 of the Code of Arbitration Procedure, the Claimant is hereby assessed forum fees in the amount of Six Hundred and 00/100 (\$600.00) Dollars, and the Respondent, DWR, is hereby assessed forum fees in the amount of Two Hundred and 00/100 (\$200.00) Dollars. The National Association of Securities Dealers, Inc. shall retain the Four Hundred and 00/100 (\$400.00) Dollar filing fee previously deposited by the Claimant with the NASD, Inc. in partial satisfaction of Claimant's portion of such fees.
3. The parties shall each bear all other costs and expenses incurred by them in connection with this proceeding.

## OTHER ISSUES

None.

## ARBITRATOR CONCURRING



Stephen A. LeClair, Esq.

Received this 17th day of September 1990.