



N.A.S.D. AWARD

Arbitration

NATIONAL ASSOCIATION OF SECURITIES DEALERS

National Association of
Securities Dealers, Inc.
NASD Financial Center
33 Whitehall Street
New York, New York 10004

In the Matter of the Arbitration Between

Name of Claimant

Estate of Morton Miller

vs

90-00680

Name of Respondents

Dean Witter Reynolds, Inc.
Julian H. Gingold

Heard before the members of the Arbitration Panel:

Name

Edward M. Sills

Public/Industry

Public

Henry H. Balter

Public

Leon Goldsholl

Industry

CASE SUMMARY

This matter was initiated by a Statement of Claim filed with the National Association of Securities Dealers, Inc. ("NASD") on March 06, 1990. Claimant, Estate of Morton Miller, Annefried V.D. Mitten, executrix, alleges that Respondents, Dean Witter Reynolds, Inc. and Julian H. Gingold, mishandled the deceased's accounts. Claimant further alleges that the accounts were churned, unsuitable securities were recommended, Respondents breached their contract and their fiduciary duties and that Dean Witter failed to supervise Respondent, Gingold. Claimant also alleges common law fraud, RICO violations and a claim for emotional distress.

In a Statement of Answer filed with the NASD on May 30, 1990, Respondents allege that the deceased was extremely knowledgeable and sophisticated in his investment affairs. They deny the allegations of churning and suitability as well as the other allegations and assert three affirmative defenses.

RELIEF REQUESTED

Claimant seeks an award of \$890,572.41 in compensatory damages, punitive damages, costs and attorney's fees.

Respondents request that the panel dismiss the claims in their entirety and award Respondents costs, fees and other appropriate relief.

AWARD

On November 19, 1990, January 23, 1991, January 24, 1991, February 07, 1991 and February 08, 1991, in New York, New York during a hearing lasting eight sessions, the undersigned arbitrator heard the controversy between the parties as set forth in submissions to arbitration signed by Anneliese V.D. Mitten, as executrix for Claimant, Estate of Morton Muller, on March 06, 1990, signed by William Peterson on behalf of Respondent, Dean Witter Reynolds, Inc., on February 15, 1991, and signed by Respondent, Julian H. Gingold, on February 15, 1991.

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

The parties have agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award be entered. In either case, the parties have agreed to receive conformed copies of the Award while the originals remain on file with the NASD.

1. All claims asserted by Claimant against both Respondents are hereby dismissed;
2. This award shall be dispositive of all motions and applications not heretofore determined;
3. The parties shall each bear their respective costs including attorneys' fees.

FORUM FEES

Pursuant to Section 43c of the Code of Arbitration Procedure, the following forum fees are assessed:

1. The NASD shall retain the \$1,000.00 filing fee previously deposited by the Claimant;
2. Claimant is assessed a non-refundable filing fee of \$250.00;
3. Claimant is further assessed forum costs in the amount of \$4,000.00;
4. The total fees assessed against Claimant is \$4,250.00 which shall be reduced by the \$1,000.00 deposit previously made. Therefore, the total amount due the NASD is \$3,250.00;
5. Respondent, Dean Witter Reynolds, Inc., is assessed \$4,000.00 in forum fees.

Fees are payable to the National Association of Securities Dealers, Inc.

Concurring Arbitrator Signature

Leon Goldsholl
Leon Goldsholl

Date of Decision: 2/8/91

DATED BY NASD
MARCH 1, 1991

DATED BY NASD
MARCH 5, 1991

Concurring Arbitrator Signature


Edward M. Sills, Esq.
Chairperson

Date of Decision: _____

DATE BY NASD
MARCH 5, 1991

Concurring Arbitrator Signature

Henry H. Balter
Henry H. Balter

Date of Decision: March 4, 1991

DATED BY NASD

MARCH 5, 1991