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NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between)

Beatrice H. Lui

Claimant)

vs.)

Dean Witter Reynolds, Inc.
Donna Atherton

Respondents)

AWARD

NASD =90-01741

REPRESENTATION

Claimant was represented by Anthony M. Englese, Esq. of San Francisco, California. Respondents were represented by Richard Rogoff, Esq. of Dean Witter Reynolds, San Francisco, California.

SUMMARY OF ISSUES

Claimant alleged breach of fiduciary duty, negligence and misrepresentation or omission of material facts in connection with her investment in shares of Commonwealth Mortgage of America, a real estate limited partnership. Respondents denied the allegations, and asserted that Claimant was fully informed of all particular regarding the investment. Respondents further asserted that Claimant failed to mitigate damages.

DAMAGES AND RELIEF REQUESTED

Claimant requested compensatory damages of approximately \$56,000 (including interest), plus punitive damages, attorney's fees and costs of arbitration.

Respondents requested dismissal of all claims.

DAMAGES AND RELIEF AWARDED

This claim was filed with the NASD on June 19, 1990. On June 14, 1991, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed by Claimant on June 18, 1990, by an authorized representative of Dean Witter Reynolds on August 10, 1990, and by Donna Atherton on August 13, 1990. The hearing was conducted in San Francisco, California and lasted one (1) session. 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 against Donna Atherton are dismissed.
2. Respondent Dean Witter Reynolds is liable for and shall pay to Claimant the sum of \$29,578 plus simple interest at 10% per annum from April 1, 1989 to June 14, 1991 (\$6,531.72), for a total of \$36,109.72.
3. The claim for punitive damages is dismissed.
4. The parties shall each bear their respective costs including attorney's fees.
5. In accordance with Section 43 of the NASD Code of Arbitration Procedure (Amended June 18, 1990), the NASD shall refund the \$800.00 hearing session deposit made by the Claimant. Respondent Dean Witter Reynolds is assessed forum fees of \$750.00, payable to the NASD.

OTHER ISSUES

None.

ARBITRATORS CONCURRING

DATE SERVED: 07/05/91

Albert Loeb Boasberg