

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

JV 13 1991

In the Matter of the Arbitration Between

Name of Claimant

Jonathan B. Frost

ARBITRATION-CROSS CLAIM

90-01990

Name of Respondent

Dean Witter Reynolds, Inc.
Daniel C. Reardon

REPRESENTATION OF PARTIES

Dean Witter Reynolds, Inc. was represented by Scott E. Richter, Esq. of Popham, Haik, Schnobrich & Kaufman, Ltd., Minneapolis, Minnesota.

Daniel Reardon was represented by Jan Stuurmans, Esq. of Stuurmans & Karan, P.A., Minneapolis, Minnesota.

CASE SUMMARY

In a Statement of Claim filed with the National Association of Securities Dealers, Inc. ("NASD") on or about July 18, 1990, Jonathan B. Frost ("Claimant") alleged that Daniel Reardon ("Reardon") an employee of Dean Witter Reynolds, Inc. ("DWR") mismanaged his account by engaging in a highly speculative and unsuitable pattern of improper trading. Claimant further alleged that DWR failed to supervise the activities of Reardon.

In its Answer and Cross-Claim filed with the NASD on or about June 27, 1991, DWR stated that it has never had any direct liability to Claimant and that any liability was based entirely upon the acts and omissions of Reardon. DWR alleged that Reardon concealed his activities from DWR. DWR stated that once the fraudulent activity was discovered, immediate action was taken. DWR stated that it reached a settlement with Claimant and Claimant has assigned his remaining claims against Reardon to DWR. In its cross-claim against Reardon, DWR restated that any liability by it was a direct result Reardon's actions.

In his Answer to the Cross-Claim, Reardon denied the allegations and asserted the following defenses: that the settlement was brought about entirely by the acts or omissions of DWR and was unreasonable; that the cross-claim fails to state a claim upon which relief may be granted; estoppel; waiver; the doctrines of in pari delicto and ratification; and negligence.

OTHER ISSUES

By agreement of the parties, no tape recording was made of the hearing held on Tuesday, October 2, 1991.

RELIEF REQUESTED

DWR requested an award in the amount of \$29,985.03, pre and post judgment interest, attorney's fees, costs and expenses damages in the amount of \$50,000.00 for injury to the business reputation of DWR and unspecified punitive damages.

Reardon requested that the cross-claim be dismissed and denied and that he be awarded his reasonable attorney's fees and costs.

PROCEDURAL MATTERS

On Thursday, September 19, 1991 and Wednesday, October 2, 1991 in Minneapolis, Minnesota during a hearing lasting a total of 5 (five) sessions, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed on July 5, 1990 by Claimant Jonathan B. Frost and on June 24, 1991 by Abe Lampart on behalf of Respondent Dean Witter Reynolds, Inc.

Respondent Daniel Reardon did not file with the NASD a properly executed submission to arbitration but is required to submit to arbitration pursuant to Sections 8 and 12 of the NASD Code of Arbitration Procedure and having answered the claim, appeared and testified at the hearing is bound by the determination of the arbitration panel on all issues submitted.

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

AWARD

The arbitration panel, having considered the pleadings, the testimony, and the evidence presented at the hearing and the post-hearing submissions of the parties, has decided in full and final resolution of the issues submitted for determination as follows:

1. The Claimant, Jonathan B. Frost, having previously settled his claims against Respondent Dean Witter Reynolds, Inc. takes nothing from Respondent Daniel Reardon;
2. Cross-Claimant, Dean Witter Reynolds, Inc., sharing responsibility for Claimant's losses due to its reckless supervision of Respondent Daniel Reardon is awarded the sum of \$2,998.50 (Two Thousand Nine Hundred Ninety Eight Dollars and Fifty Cents);
3. No interest is awarded on the above stated sum;
4. Each party shall bear its own costs, expenses and attorney's fees

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incurred in this matter not specifically enumerated herein; and

5. Pursuant to Section 43(c)/44(c) of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall retain the non-refundable filing fee in the amount of \$120.00 and shall retain the hearing session deposit in the amount of \$400.00 previously deposited with the NASD by the Claimant. Dean Witter Reynolds, Inc. shall pay to the NASD the sum of \$1,600.00 as forum fees.

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

Dated:

11/8/91

James E. Olson, Esq.
Presiding Chair
Public Arbitrator

Sharon K. Innes
Sharon K. Innes
Public Arbitrator

David M. Ginter
Industry Arbitrator

90-1990

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

Dated:

James E. Olson, Esq.
Presiding Chair
Public Arbitrator

Sharon K. Ines
Public Arbitrator

11/12/91



David M. Ginter
Industry Arbitrator

90-1990

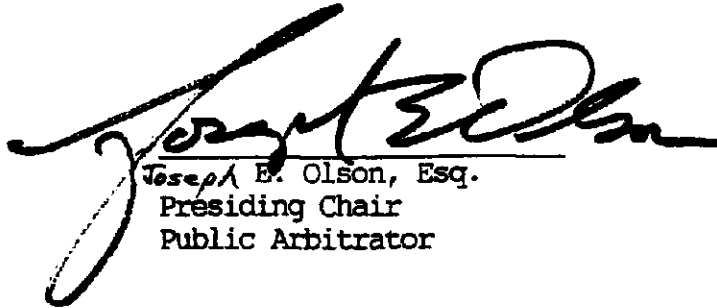
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