

N.A.S.D. AWARD

Arbitration

NATIONAL ASSOCIATION OF SECURITIES DEALERS

National Association of
Securities Dealers, Inc.
One East Broward Boulevard
Suite 1000
Ft. Lauderdale, Florida 33301
(305) 522-7391

In the Matter of the Arbitration Between

Name of Claimant(s)

Caesar J. Wollheim, Jr.

CASE #90-02014

Name of Respondent(s)

Dean Witter Reynolds, Inc.

Heard before the arbitrator:

George Felos, Esq.

Public

REPRESENTATION

Claimant, Caesar J. Wollheim, Jr. ("Wollheim"), was represented by A. Grant Bohl of db Management.

Respondent, Dean Witter Reynolds, Inc. ("DWR"), was represented by Melinda Socol Herbst, Esq. of Dean Witter Reynolds, Inc.

CASE SUMMARY

This claim was initiated by a Statement of Claim filed with the National Association of Securities Dealers, Inc. ("NASD") on July 20, 1990. Claimant alleged that Respondent was liable for: breach of fiduciary duties; failure to deliver a prospectus; recommending an unsuitable mutual fund to Claimant; switching; misrepresenting, among other things, that the mutual fund was the best investment for Claimant; and failure to supervise.

In a Statement of Answer filed with the NASD on May 21, 1991, Respondent denied all allegations of wrongdoing and alleged that: Claimant's investment objectives were income, aggressive income and capital appreciation; Claimant represented that he was suitable for the investment; Claimant was informed of the workings and attributes of the mutual fund; no switch letter was required; there was no switching of mutual funds; and the investment was suitable for Claimant.

Respondent alleged the affirmative defenses of: waiver; ratification; estoppel; lack of intent to defraud; superceding and intervening causes; failure to mitigate damages; and assumption of risk.

RELIEF REQUESTED

Claimant requested damages in the amount of \$8,473.00 plus costs.

Respondent requested dismissal of the claim plus costs.

AWARD

Pursuant to Section 13 of the NASD, Inc. Code of Arbitration Procedure ("Simplified Arbitration") a single arbitrator, George Felos, Esq. was selected to review and determine the matter in controversy between the parties as set forth in submissions to Arbitration signed by the Claimant on July 11, 1990 and by Melinda Socol Herbst on behalf of Respondent on September 4, 1990.

The Arbitrator, having considered the proofs of the Parties, including any additional documentary submissions of the Claimant and the Respondent has decided and determined in full and final resolution of the issues submitted for determination as follows:

1. Respondent is found not liable and, therefore, all claims against it are hereby dismissed.
2. Claimant's and Respondent's requests for costs are denied.

FORUM FEES

3. Pursuant to Section 43c of the Code of Arbitration Procedure, the Arbitrator has assessed forum fees in the amount of \$75.00. Claimant is hereby assessed \$75.00 for which the NASD shall retain \$75.00 of the \$200 filing fee previously deposited in full satisfaction thereof. The NASD shall also retain the \$75.00 non-refundable filing fee previously deposited and will refund to Claimant the balance of \$125.00.

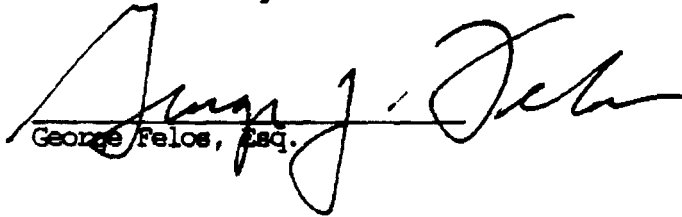
4. The parties shall each bear all other costs and expenses incurred by them in connection with this proceeding, including attorney's fees.

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

OTHER ISSUES

None.

Arbitrator's Signature


George Felos, Esq.

Date of Decision: 7/2/91