

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

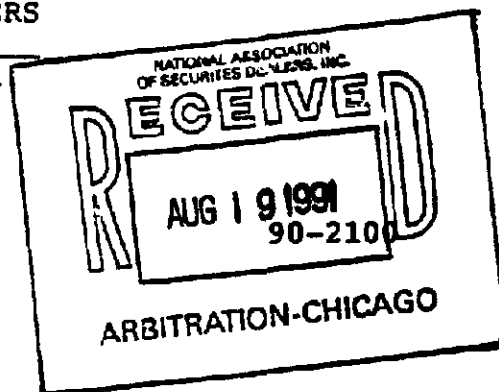
Vicki L. Dillner

Claimant

vs.

Dean Witter Reynolds, Inc. and
Roger L. Cole

Respondents



REPRESENTATION OF PARTIES

Claimant was represented by Robert W. McPherson, Esq. of Golden, McPherson & Wilson, P.C., Memphis, Tennessee. Respondents were represented by Edward W. Larkin, Esq. of Dean Witter Reynolds, Inc., New York, New York.

CASE SUMMARY

In a Statement of Claim filed with the National Association of Securities Dealers, Inc. ("NASD") on July 31, 1990 by Claimant Vicki L. Dillner ("Claimant") alleged that Respondents Dean Witter Reynolds, Inc. and Roger L. Cole ("Respondents") sold claimant unsuitable investments consisting of real estate limited partnership interests. Claimant also alleged that these investments were misrepresented to her. Claimant alleged that Respondent violated Section 10b of the Securities Exchange Act of 1934 and Rule 10b-5 promulgated thereunder in making these investments for Claimant.

In a Statement of Answer filed with the NASD on March 6, 1991, Respondents denied that they violated any duty, obligation or responsibility owed Claimant. Respondents denied that any misrepresentations were made to Claimant and alleged that prospectuses for the investments were given to Claimant and that all material facts concerning these investments were set forth in the prospectuses. Respondents also denied that the investments were inconsistent with the investment objectives and goals of Claimant.

RELIEF REQUESTED

Claimant requested rescission of her purchases and a refund of \$50,000 principle or in the alternative the difference between the units fair market value as represented to Claimant and the fair market value actually received by Claimant, interest, forum fees, costs and attorney's fees. Respondents requested that the claim be denied in its entirety and that costs be assessed against Claimant.

OTHER ISSUES

Claimant asserted a motion to bar the Respondents from presenting any facts or defenses to the claim due to Respondents untimely filing of their answer. This motion made pursuant to Section 25(b)(2)(iii) was denied by the panel and the Respondents were allowed to defend the claim.

PROCEDURAL MATTERS

On July 10, 1991, in Memphis, Tennessee during a hearing lasting a total of two (2) sessions, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed on July 18, 1990 by Claimant Vicki L. Dillner.

Respondents Dean Witter and Cole did not file with the NASD properly executed submissions to arbitration but are required to submit to arbitration pursuant to Section 12 of the NASD Code of Arbitration Procedure and having answered the claim, appeared and testified at the hearing are 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, has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondents are jointly and severally liable for and shall pay to Claimant the sum of Seven Thousand Five Hundred Dollars and no cents (7,500.00);
2. No interest is awarded on the above sum;
3. Except as enumerated below, the parties shall each bear their own costs, expenses and attorney's fees incurred in this matter; and
4. Pursuant to Section 43(c) of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall retain the \$150.00 claim filing fee and the \$600.00 hearing session deposit previously deposited with the NASD by the Claimant. Respondent Dean Witter Reynolds, Inc. is assessed additional forum fees payable to the NASD in the amount of \$500.00.

Dated:

Panel Members Concurring

8/15/91

Irving M. Strauch
Irving M. Strauch
Presiding Chair
Public Arbitrator

William Boone
William Boone
Public Arbitrator

George A. Sawyer
George A. Sawyer
Industry Arbitrator

Date Served by NASD: _____

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Dated:

Panel Members Concurring

Irving M. Strauch
Presiding Chair
Public Arbitrator

William Boone
Public Arbitrator

August 15, 1991

George A. Sawyer
George A. Sawyer
Industry Arbitrator

Date Served by NASD: _____

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Irving M. Strauch
Presiding Chair
Public Arbitrator


William Boone
Public Arbitrator

George A. Sawyer
Industry Arbitrator

Date Served by NASD: _____