

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant(s)

Sam Lethaby

90-02533

Name of Respondent(s)

Dean Witter Reynolds, Inc.
Diane Rolfsmeyer

REPRESENTATION

Claimant Samuel J. Lethaby appeared pro se. Respondent Diane Rolfsmeyer appeared and was represented by Steven Speicher Esq. Respondent Dean Witter Reynolds, Inc. and George Easley was represented by Kurt Mueller and appeared as Dean Witter Reynolds, Inc. Corporate Representative.

CASE SUMMARY

In a Statement of Claim filed with the National Association of Securities Dealers, Inc. ("NASD") on or about December 1, 1990, Claimant Samuel J. Lethaby alleged misrepresentation, failure to diversify and unsuitability of investment by Respondent's Dean Witter Reynolds, Inc. and Diane Rolfsmeyer. The facts leading to these allegations are as follows: On or about February of 1987 Claimant was contacted by Respondent Diane Rolfsmeyer to reinvest his retirement funds into Respondent Dean Witter Reynolds Inc.'s Convertible Securities Trust. At that time, Claimant invested \$80,154.56 with Respondent. Claimant withdrew his funds in December of 1988. The amount he received from the fund was \$67,428.94.

In a Statement of Answer filed with the NASD on or about December 1, 1990, Respondent Diane Rolfsmeyer denied Claimants allegation of misrepresentation and further alleged that after her termination in November of 1988, another broker took over responsibility for Claimant's account.

In a Statement of Answer filed with the NASD on or about December 1, 1990, Respondent Dean Witter Reynolds, Inc. denies Claimant's allegations of unsuitability, misrepresentation and failure to diversify.

RELIEF REQUESTED

Claimant Samuel J. Letheby requested entry of an award against Respondents Diane Rolfsmeyer and Dean Witter Reynolds, Inc. in the sum of \$23,307.37.

Respondent Dean Witter Reynolds, Inc. requested Claimants claim be dismissed and that Claimant take nothing by way of it.

PROCEDURAL MATTERS

On July 24, 1991 in Omaha, Nebraska during a hearing lasting a total of one session, the undersigned arbitrator heard the controversy between the parties as set forth in submissions to arbitration signed on August 2, 1990 by Claimant Samuel J. Letheby, on November 21, 1990 by Respondent Diane Rolfsmeyer and on November 20, 1990 by Mary Curran on behalf of Respondent Dean Witter Reynolds, Inc.

Respondents Diane Rolfsmeyer and Dean Witter Reynolds, Inc. answered the claim, appeared and testified at the hearing and are bound by the determination of the arbitrator on all issues submitted.

The parties have agreed that a handwritten, signed Award may be entered. The parties have agreed to receive typed conformed copies of the award while the original remains on file with the NASD.

AWARD

The arbitrator, having considered the pleadings, the testimony and the evidence presented at the hearing, has decided in full and final resolution of the issues for determination as follows:

1. Claimant Samuel Letheby's claim for damages is denied and his claim is hereby dismissed;
2. All parties hereto shall pay their own costs and fees related to this arbitration; and
3. Pursuant to Section 43(c) of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall retain the hearing session deposit in the amount of \$400.00 previously deposited with the NASD by the Claimant.

Dated: July 24, 1991

Norman Veitzer
Presiding Chair
Public Arbitrator