

Arbitration

N.A.S.D. AWARD

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

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between)

Name of Claimant(s))

Kannon Party Design, Inc. et. al.)

Case No. 91-00541

Name of Respondent(s))

Dean Witter Reynolds, Inc.)

John Faber)

REPRESENTATION

For Claimants, Kannon Party Design, Inc. ("KPD") and Lawrence Kannon, ("Kannon") individually and as Trustee of his IRA: Russell L. Forkey, Esq.

For Respondents, Dean Witter Reynolds, Inc. ("DWR") and John Faber ("Faber"): George D. Sullivan, Esq. of DWR.

CASE INFORMATION

Statement of Claim filed: February 19, 1991. Claimants' Submission Agreements signed: February 14, 1991 by Lawrence Kannon on behalf of KPD, and on March 18, 1991 by Kannon.

Respondents, DWR and Faber's Statement of Answer filed: January 7, 1992. Respondents' Submission Agreements signed: March 31, 1992 by George D. Sullivan, Esq. on behalf of DWR, and on March 31, 1992 by Faber.

HEARING INFORMATION

On January 8, March 31, April 1 and May 1, 1992, in Fort Lauderdale, Florida, hearings lasting seven (7) sessions were conducted.

CASE SUMMARY

Claimants alleged that Respondents failed to properly monitor the accounts; breached their understandings and agreements; omitted to state material facts; failed to take protective action regarding the equity securities and money market funds; and, that Respondents' actions constituted fraud and deceit, breach of fiduciary duties, negligence, breach of contract, and negligent supervision.

Respondents denied all allegations of wrongdoing and alleged the affirmative defenses of: extraordinary market conditions; suitability; waiver and estoppel; ratification and approval; no misrepresentations or omissions; no intent to defraud; proper supervision; failure to state a claim; and, preclusion of punitive damages.

RELIEF REQUESTED

Claimants requested damages in the amount of \$157,000.00, punitive damages in the amount of \$75,000.00, interest, costs and attorney's fees.

Respondents requested dismissal, costs and attorney's fees.

OTHER ISSUES CONSIDERED & DECIDED

1. 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 originals remain on file with the NASD.

2. After the hearing commenced on January 8, 1992 and when Arbitrators' Exhibit #1 was being admitted, the Panel received Claimants' Motion to Bar Answer. Respondents' Answer was filed on January 7, 1992 and the Motion to Bar was filed on January 6, 1992. After hearing argument, the Panel denied the Motion, permitted the Answer and granted a postponement of the hearing to March 31, 1992.

AWARD

After considering the pleadings, the testimony and the evidence presented at the hearing, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. Respondents, DNR and Faber, are found not liable and, therefore, all claims against them are hereby dismissed.
2. Claimants' requests for attorney's fees, costs and punitive damages are denied.
3. Respondents' request for attorney's fees is denied for a lack of record evidence in support thereof.

OTHER COSTS

The parties shall each bear all other costs and expenses incurred by them in connection with this proceeding.

FORUM FEES

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the Panel has assessed forum fees in the amount of \$5,250.00 (seven sessions x \$750.00). Claimants are hereby assessed \$5,250.00 for which the NASD shall retain the \$850.00 previously deposited in partial satisfaction thereof, leaving a balance due to the National Association of Securities Dealers, Inc. of \$4,400.00.

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

Concurring Arbitrators' Signatures

/s/
Leonard H. Davidson, Esq.

Public

/s/
John J. Hearn, Esq.

Public

/s/
Leslie Bishop

Industry

Date of Decision: May 11, 1992