

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between :

Robert W. Connelly :

Claimant :

vs. :

CASE #91-00618
AWARD

Dean Witter Reynolds, Inc. :

William E. Kellar :

Respondent :
-----CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on February 26, 1991, Claimant, Robert W. Connelly, who appeared Pro Se, alleged that Respondents, Dean Witter Reynolds, Inc. and William E. Kellar, liquidated his IRA account without authorization when, in fact, he had requested the account be transferred to another firm. The Claimant further alleged that the liquidation of his account caused a contingent deferred sale charge, which was never even disclosed to him or his Accountant at the time he made this investment. The Claimant also alleged that when he attempted to have this error corrected, Respondent Dean Witter Reynolds, Inc. offered only to re-instate his Account, but the sale charges would not be reversed unless he retained his account with Dean Witter Reynolds, Inc., which was not the Claimant's intention.

Respondents, Dean Witter Reynolds, Inc. and William E. Kellar, through their in-house counsel, Melinda Socol Herbst, maintained that the sales charge was discussed with the Claimant prior to the investment, although the term "contingent deferred sale charge" may not have been used. The Respondents further maintained that they offered to reinstate the account with no charges, but the Claimant refused to accept the offer.

RELIEF REQUESTED

Claimant Robert W. Connelly requested \$5,016.12 in actual damages.

Respondents, Dean Witter Reynolds, Inc. and William E. Kellar requested the claims of the Claimant be dismissed.

AWARD

Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Philip M. Giordano, Esq., was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on February 22, 1991, by the Respondent, William Kellar on April 12, 1991 and Dean Witter Reynolds, Inc. on April 15, 1991.

And, the Arbitrator, having considered the proof of the Parties, has decided and determined in full and final resolution of the issues submitted for determination as follows:

1. Respondent, Dean Witter Reynolds, Inc. is liable and shall pay \$5,016.12 to the Claimant, Robert W. Connelly in actual damages.
2. Respondent, Dean Witter Reynolds, Inc. is liable and shall pay simple interest at the statutory legal rate of interest for the State of Massachusetts. This interest shall be calculated from 2/22/91 to the date of payment of this award.
3. All claims against the Respondent, William E. Kellar, are hereby dismissed in their entirety and with prejudice.
4. The parties shall bear their respective costs and attorney's fees.
5. The \$150.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant shall be retained by the NASD, Inc. Respondent Dean Witter Reynolds, Inc. shall pay \$150.00 to the Claimant as reimbursement.

AFFIRMATION

I, PHILIP M. GIORDANO, ESQ., do hereby affirm upon my oath as arbitrator that I am the individual described herein and who executed this instrument, which is my oath and award.


Signature of Arbitrator

DATE OF DECISION: April 23, 1992