

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Name of Claimant(s)

William E. Reisinger, Jr.

91-00995

Name of Respondent(s)

Tucker Anthony Incorporated  
John Hancock Clearing Corp.  
Peter Christus  
Robin Oliver

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REPRESENTATION

For Claimant: Edward J. Kabala, Esq.

For Respondent: Paul A. Lieberman, Esq. of Tucker Anthony Incorporated.

CASE INFORMATION

Statement of Claim filed: April 2, 1991.

Claimant's Submission Agreement signed on: March 25, 1991

Joint Statement of Answer filed by all Respondents on: May 29, 1991.

Submission Agreement and Corporate Acknowledgment of Respondent, Tucker Anthony Incorporated signed on: May 28, 1991 by Paul A. Lieberman on behalf of the firm.

Submission Agreement and Corporate Acknowledgment of Respondent, John Hancock Clearing Corp., signed on: May 28, 1991 by Vincent Movano on behalf of the firm.

Submission Agreement of Respondent, Peter Christus, signed on: May 29, 1991.

Submission Agreement of Respondent, Robin A. Oliver, signed on: May 29, 1991.

HEARING INFORMATION

Hearing Dates/Sessions: September 26, 1991-Two (2) Sessions.  
September 27, 1991-Two (2) Sessions.

Hearing Location: Pittsburgh, PA

MSRD-491-00995

CASE SUMMARY

Claimant alleged that Respondent, Peter Christus ("Christus"), an associated person employed by Respondent, Tucker Anthony, Incorporated, breached his fiduciary duty toward Claimant by giving him unsound investment advice with respect to a particular investment product known as Dean Witter Reynolds, Inc. EIRs ("EIRs") and other investments which were unsuitable for Claimant. Claimant also alleged that Respondent, Christus misrepresented to him the amount of commission he would be charged with respect to his purchases. Claimant contended that as a direct result of the investment vehicle selected by Respondent, Christus and the inappropriate advice provided by him, to Claimant, Claimant lost substantial anticipated earnings.

Respondents denied all allegations of wrong doing and maintained that Claimant is an experienced and sophisticated trader who made the decision to trade "EIR's" after discussion about the features of same with Respondent, Christus and that Claimant treated his IRA as a speculative trading account with a short term orientation. Respondents further maintained that Claimant's losses were not caused by any action or omission to act on the part of Respondents.

RELIEF REQUESTED

Claimant requested an award of damages in the amount of \$141,479.57, An Award for improper commissions in the amount of \$72,208.00 plus costs attorneys' fees and reasonable out-of-pocket expenses. Claimant also requested disgorgement of any commissions or mark-ups determined to be owing Claimant.

Respondents requested dismissal of the Claim and requested an award of Reasonable costs and attorneys fees .

OTHER ISSUES CONSIDERED & DECIDED

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.

AWARD

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

1. That Respondents, Tucker Anthony Incorporated Corp., and Peter Christus are jointly and severally liable and shall pay to Claimant, William E. Reisinger, Jr., the sum of Fifteen Thousand Dollars and No Cents (\$15,000.00);

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NAND-401-00035

2. That All Claims of the Claimant against Respondents, John Hancock Clearing Corporation and Robin Oliver shall be and are hereby dismissed;

2. That the parties shall each bear their own costs including attorneys' fees;

**FORUM FEES:**

Pursuant to Section 43c of the Code of Arbitration Procedure, the NABD, Inc. shall retain the \$200.00 non-refundable filing fee previously deposited by Claimant and following Forum Fees are assessed:

Four (4) Sessions X \$750 = \$3000.00.

Forum Fees assessed against:

1- Claimant, in the amount of \$750.00, however, The NABD, Inc. shall use the \$750.00 hearing session deposit previously deposited by Claimant to offset this fee, whereby Claimant owes no forum fees;

2- Respondents, Tutor Anthony Incorporated and Peter Christus, jointly and severally in the amount of \$2,250.00.

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

**ARBITRATION PANEL:**

Name

Public/Industry

Frederick E. Lischki, Esq.

Public/Chairman

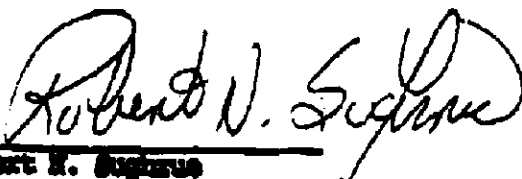
Robert H. Sugrue

Public/Panalist

Samuel R. Roth, Jr.

Industry/Panalist

**Composing Arbitrator's Signature**

  
Robert H. Sugrue

Date of Decision: February 6, 1992

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NMSD-901-00000

2. That All Claims of the Claimant against Respondents, John Hancock Clearing Corporation and Robin Oliver shall be and are hereby dismissed;
2. That the parties shall each bear their own costs including attorneys' fees;

**FORUM FEES**

Pursuant to Section 43c of the Code of Arbitration Procedure, the NASD, Inc. shall retain the \$200.00 non-refundable filing fee previously deposited by Claimant and following Forum Fees are assessed:

Four (4) Sessions X \$750 = \$3000.00.

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- 1- Claimant, in the amount of \$750.00, however, The NASD, Inc. shall use the \$750.00 hearing session deposit previously deposited by Claimant to offset this fee, whereby Claimant owes no forum fees;
- 2- Respondents, Tucker Anthony Incorporated and Peter Christus, jointly and severally in the amount of \$2,250.00.

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

**ARBITRATION PANEL**

Name

Public/Industry

Frederick E. Liechti, Esq. ✓

Public/Chairman

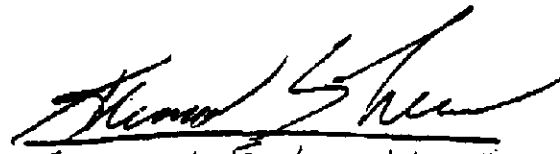
Robert W. Suthrus

Public/Panelist

Samuel R. Robb, Jr.

Industry/Panelist

**Chairman's Signature**

  
Frederick E. Liechti, Esq.

Date of Decision: February 6, 1992

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NAND-901-00005

2. That All Claims of the Claimant against Respondents, John Hancock Clearing Corporation and Robin Oliver shall be and are hereby dismissed;

2. That the parties shall each bear their own costs including attorneys' fees;

Pursuant to Section 43c of the Code of Arbitration Procedure, the NAD, Inc. shall retain the \$200.00 non-refundable filing fee previously deposited by Claimant and following Forum Fees are assessed:

Four (4) Sessions X \$750 = \$3000.00.

Forum fees assessed against:

1- Claimant, in the amount of \$750.00, however, The NAD, Inc. shall use the \$750.00 hearing session deposit previously deposited by Claimant to offset this fee, whereby Claimant owes no forum fees;

2- Respondents, Tucker Anthony Incorporated and Peter Christus, jointly and severally in the amount of \$2,250.00.

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

### ARBITRATION PANEL

#### Name

#### Public/Industry

Frederick E. Liechti, Esq.  
Robert M. Hughes  
Samuel R. Robb, Jr.

Public/Chairman  
Public/Panalist  
Industry/Panalist

#### Cooperating Arbitrator's Signature

  
Samuel R. Robb, Jr.

Date of Decision: February 6, 1992