

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

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In the Matter of the Arbitration Between

Name of Claimant

Walter H. Hill, Jr.

91-01093

Name of Respondents

Dean Witter Reynolds, Inc.  
Ray Powell

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REPRESENTATION

For Claimant: Donald W. Stewart, Esq.

For Respondents: A. Danner Frazer, Esq. of the law firm of Frazer, Greene  
Philpot & Upchurch.

CASE INFORMATION

Statement of Claim filed on: April 4, 1991.

Claimant's Submission Agreement signed on: April 3, 1991.

Joint Statement of Answer filed by Respondents on: August 19, 1991.

Respondent Ray Powell's Submission Agreement signed on: August 7, 1991.

Respondent Dean Witter Reynolds, Inc.'s Submission Agreement signed on:  
August 7, 1991.

HEARING INFORMATION

Hearing Date/Sessions: January 7, 1992, 2 Sessions.

Hearing Location: NASD offices located in Atlanta, GA.

CASE SUMMARY

Claimant alleged that Respondents carried on excessive activity in Claimant's account, even though Claimant only authorized a small portion of his principal to be traded on margin, and made inappropriate investments with Claimant's funds without authorization. Claimant further alleged Respondents did not explain trades to Claimant as they were executed and told Claimant not to worry about margin calls as they would be taken care of.

Respondents maintained that the investments in Claimant's account were suitable for Claimant's objectives and consistent with his goals; all transactions were discussed with and authorized by Claimant with his knowledge and consent; although Claimant received trade confirmations and monthly statements, he did not timely object to any of the transactions regarding their authorization, suitability or for any other reason; Claimant knowingly assumed the risks associated with his transactions; no misrepresentations or omissions of material facts were made by Respondents concerning the investments; market conditions and events not caused by or in the control of Respondents caused any losses in value of Claimant's account, and by his conduct Claimant ratified and approved of the transactions in his account.

RELIEF REQUESTED

Claimant requested damages of \$42,019.40, plus punitive damages in the sum of \$84,038.40.

Respondents requested dismissal of all claims and that the costs be assessed against the Claimant.

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. The Respondents Dean Witter Reynolds, Inc. and Ray Powell be and hereby are liable jointly and severally and shall pay to the Claimant Walter H. Hill, Jr. the sum of \$38,000.00.
2. The Claimant's claim for punitive damages is denied.
3. Each party shall bear their respective costs, including attorneys' fees.

FORUM FEES

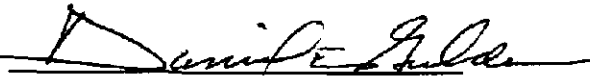
Pursuant to Section 43c of the Code of Arbitration Procedure, the following Forum Fees are assessed.

\$750.00 X 2 Sessions = \$1,500.00 minus hearing session deposit  
of \$750.00 = net \$750.00 due.

The Respondents Dean Witter Reynolds, Inc. and Ray Powell be and hereby are liable jointly and severally and shall pay to the Claimant the sum of \$950.00 to reimburse him for the filing fees paid and the Respondents Dean Witter Reynolds, Inc. and Ray Powell be and hereby are liable jointly and severally and shall pay to the NASD the sum of \$750.00 to represent forum fees.

The NASD shall retain the \$200.00 claim filing fee paid by the Claimant.


CONCERNING ARBITRATORS' SIGNATURE

  
Daniel E. Gulden

Public Arbitrator

  
William G. Leonard, Esq.

Public Arbitrator

  
William A. Lobb

Industry Arbitrator

FEB 27 1992

Date of Decision: \_\_\_\_\_