

N.A.S.D. NASD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

Virginia M. & Theodore Miloserny, JMT

91-01260

Simplified Arbitration Award

Name of Respondents

Dean Witter Reynolds, Inc.
Stuart J. Harrell

REPRESENTATION

For Claimants: Thomas W. Donohue, Esq. of Titus, Bruckner & Berry,
Phoenix, Arizona.

For Respondents: Wendy R. Robinson, Esq. of Dean Witter Reynolds, Inc., San
Francisco, California.

CASE INFORMATION

Statement of Claim filed: April 22, 1991. Answered Statement of Claim filed:
October 7, 1991.

Claimant's Submission Agreement signed on: March 26, 1991.

Joint Statement of Answer filed by Respondents on: June 7, 1991.

Respondent Dean Witter Reynolds, Inc.'s Submission Agreement signed on: June
6, 1991.

ISSUING INFORMATION

The controversy was submitted on the papers in Phoenix, Arizona pursuant
to Section 13 of the Code of Arbitration Procedure, Simplified Arbitration.

CASE SUMMARY

Claimants Virginia and Theodore Miloserny ("the Milosernys") alleged
that they invested in the Dean Witter High Yield Securities Fund ("Fund")
based on the recommendation of Respondents Dean Witter Reynolds, Inc. ("Dean
Witter") through its representative Respondent Stuart Harrell ("Harrell").
The Milosernys further alleged that the Fund was unsuitable for their
conservative investment objective. The Milosernys alleged that they never

intended to invest in any speculative type investments that would put their principal at risk. The Milosernys also alleged that Harrell never informed them of the front-end sales load.

In the Amended Statement of Claim, the Milosernys withdrew their request for a hearing and requested that the controversy be submitted on the papers, and also stipulated to a request of damages in the amount of \$10,000.00. The Milosernys alleged negligence, suitability, material misrepresentation and omissions, and violation of Arizona securities laws in connection with the unsuitable investment in the Fund.

Respondents Dean Witter and Stuart Harrell alleged that the investment was suitable for the Milosernys based on their experience, financial situation, and investment objective, and that the Fund was never misrepresented to the Milosernys in any way. The Respondents asserted the defenses of ratification, waiver, and estoppel and the Statute of Limitations.

RELIEF REQUESTED

Claimants stated that although their damages well exceed the amount-in-controversy limit for simplified arbitration, the Milosernys stipulate to damages of \$10,000.00 plus attendant interest and costs, including attorney's fees.

Respondents requested that the claim be dismissed in its entirety.

OTHER ISSUES CONSIDERED & DECIDED

Respondent Stuart Harrell did not file with the NASD a properly executed submission to arbitration but is required to submit to arbitration pursuant to Section 12 of the Code of Arbitration Procedure and is bound by the determination of the arbitrator on all issues submitted.

VERDICT

After considering the pleadings, the undersigned arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondents Dean Witter Reynolds, Inc. and Stuart Harrell shall be and hereby are jointly and severally liable for and shall pay to the Claimants damages in the amount of Three Thousand Three Hundred Twenty Eight Dollars and No Cents (\$3328.00) on Count A in the Amended Statement of Claim;

2. All other claims are denied;

3. Each of the parties shall bear their own costs and expenses incurred, including attorney's fees; other than those specifically enumerated herein.

FORUM FEES

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

1 session X \$75 = \$75 minus hearing session deposit of \$0 = net \$75 due.

Forum fees Assessed Against: Claimants Virginia and Theodore Milosevsky.

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

By The Arbitration Panel:

Stephen Venezia
Stephen Michael Venezia, Esq.
Public Arbitrator, Chairman

Dated:

6/9/92