

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

Norbert & Linda Pann

vs.

NASD #91-01275

Name of Respondent

Dean Witter Reynolds, Inc.

REPRESENTATION

For Claimants: Robert C. Fracchia, Esq., Dobbins, Weir, Thompson & Stephenson, Vacaville, California.

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

CASE INFORMATION

Statement of Claim filed: April 23, 1991

Claimants' Submission Agreement signed on: April 18, 1991

Statement of Answer filed by Respondent on: August 9, 1991

Respondent's Submission Agreement signed on: August 9, 1991

HEARING INFORMATION

Hearing Date/Sessions: February 19, 1992 (2 sessions)
February 20, 1992 (1 session)

Hearing Location: San Francisco, California

CASE SUMMARY

Claimants alleged breach of fiduciary duty, fraud and material misrepresentation with respect to their investments in the common stock of Sealed Air.

Respondent denied the allegations, and asserted that any losses Claimants experienced were a result of market conditions that Claimants waited an unreasonable period of time to file a claim and that the claim does not state facts sufficient to constitute a cause of action.

RELIEF REQUESTED

Claimants requested damages of \$197,815.35 plus interest, costs of arbitration and punitive damages.

Respondent requested dismissal of all claims.

OFFERED AWARD 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, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. Respondent Dean Witter Reynolds is liable for and shall pay to Claimants the sum of \$35,905 inclusive of interest.
2. The claim for punitive damages is dismissed.
3. The parties shall each bear their respective costs including attorneys' fees.

OTHER COSTS

None.

FORUM FEES

Pursuant to Section 43c of the Code of Arbitration Procedure, the NASD shall refund the \$750.00 hearing session deposit previously deposited by the claimant. Forum Fees of \$2,250 are assessed against Respondent, calculated as follows: 3 sessions x \$750 per session.

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

LITIGATION PANEL

Public/Industry

Public

Public

Industry


Daniel M. Yarnston

Date of Decision: February 20, 1992