

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)

Edward De Groff & Elizabeth M. De Groff

Case No. 91-01346

Name of Respondent(s)

Dean Witter Reynolds, Inc.  
Doug Campbell  
Elton Stevens (Dismissed-removed)

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**REPRESENTATION**

For Claimants, Edward De Groff and Elizabeth M. De Groff ("De Groffs"):  
William Doyle, Esq. of Fort Lauderdale, Florida.

For Respondent, Dean Witter Reynolds ("DWR"): and Douglas Campbell  
("Campbell"): Glenn D. Kelly Esq. of DWR of West Palm Beach, Florida.

For Resondent, Elton Stevens: Pro Se.

**CASE INFORMATION**

Statement of Claim filed: May 29, 1991. Claimant's Submission Agreement  
signed: April 19, 1991.

Respondent, Elton Stevens' Statement of Answer filed: June 20, 1991 and  
Submission Agreement signed June 17, 1991.

Respondents', DWR and Campbell's, Statement of Answer filed: May 3, 1994.  
Respondents' Submission Agreement signed: May 4, 1994 by Douglas Campbell  
and by George D. Sullivan, Esq. on behalf of DWR.

**HEARING INFORMATION**

On May 5 and 9, 1994, in Fort Lauderdale, Florida, hearings lasting 5 sessions were conducted.

### CASE SUMMARY

Claimants alleged that Respondents made unsuitable and misrepresented investments for Claimants in limited partnerships; that there was sole reliance by Claimants on Respondents which is uncontradicted; that Claimants were limited on funds as they were retired and these liquid assets could not be replaced; that Claimants explained the purpose of their investments to preserve principal and when the sale of their business installments ended they looked to these funds to live on; that Claimants were limited in their knowledge of investments and Respondent Campbell took advantage of this by putting over 35% of liquid assets into speculative limited partnerships; and, that Campbell was revealed when it was shown he bought speculative investments on margin of 12 1/2% completely unknown to Claimants.

Respondents, DWR and Doug Campbell, denied all allegations of wrongdoing and alleged that the claims asserted by the De Groffs in this matter are frivolous; that Claimant, Edward De Groff, was a knowledgeable and sophisticated investor with prior investment experience and an extensive business background which included ownership of his own insurance agency and work as a licensed real estate broker. that no misrepresentations were made to the Claimants; that Campbell fully advised the Claimants of all risks associated with the two limited partnerships purchased by the Claimants, that the Claimants were provided with a prospectus for each limited partnership prior to purchase; and, that the losses suffered by the Claimants, if any, were the result of market forces beyond the control of the Respondents.

Respondents further alleged that the claims asserted by the Claimants are no longer eligible for arbitration before the NASD because the claims were not asserted within six years of the occurrence or event giving rise to the claims as required by Section 15 of the NASD's Code of Arbitration Procedure; and, that the claims are time-barred by virtue of the running of the applicable statutes of limitation and/or repose.

### RELIEF REQUESTED

Claimants requested damages in the amount of no more than \$30,000.00 (see Other Issues); interest, costs and attorney's fees.

Respondents, DWR and Campbell, requested dismissal, costs and attorney's fees. Respondent, Stevens, requested dismissal.

### OTHER ISSUES CONSIDERED & DECIDED

1. Respondent, Stevens, requested dismissal on June 15, 1991. That motion was granted on May 14, 1992 and Mr. Stevens was removed as a party.
2. Respondents, DWR and Campbell, renewed their Motion for Dismissal to the Panel pursuant to Section 15 of the Code of Arbitration Procedure ("Code") and, upon deferral, moved for a directed verdict on both Section 15 and statute of limitation grounds. That Motion was denied as to DWR and a directed verdict was granted as to Campbell.
3. Claimants moved to bar the Respondents from presenting any facts or defenses at the hearing pursuant to Section 25 (b). Ruling was deferred until the conclusion of Claimants' case, when it was granted.
4. The parties have agreed that a handwritten, signed Award may be entered. In this case, the parties have agreed to receive a conformed copy of the Award while the original remains on file with the NASD.

### AWARD

After considering the pleadings, the testimony, and the evidence presented at the hearing, the arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondent, DWR, is found not liable and, therefore, all claims against it are hereby dismissed. The claims against Respondent, Campbell, were dismissed during the hearing on Motion for Directed Verdict.
2. Claimants' request for attorney's fees and costs are denied.
3. Respondents', DWR and Campbell's, requests for attorney's fees and costs are denied.

### OTHER COSTS

The parties shall each bear all other costs and expenses incurred by them in connection with this proceeding.

### FORUM FEES

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the Arbitrator has assessed forum fees in the amount of \$1,500.00 (5 sessions x \$300.00).

1. Claimants are hereby assessed \$750.00 for which the NASD shall retain the \$550.00 previously deposited in partial satisfaction thereof leaving a balance due to the NASD of \$200.00 payable to the National Association of Securities Dealers, Inc.

2. Respondent, DWR, is hereby assessed \$750.00 for which the NASD shall retain the \$300.00 previously deposited in partial satisfaction thereof leaving a balance due to the NASD of \$450.00.

3. The NASD shall retain the non-refundable filing fee of \$100.00 paid by the Claimants.

4. The NASD shall retain the \$300.00 and \$600.00 respectively, paid by the Respondents for the postponements of the hearing scheduled for June 11, 1992 and November 19, 1993.

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

Name

Public/Industry

15/  
Ronald Thomas Spann, Esq.

Public

Date of Decision:

5/23/94