

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

Francis K. and Audrey B. Tyra, JTWROS

91-01448

CHICAGO

Name of Respondent

Dean Witter Reynolds, Inc.

REPRESENTATION

For Claimants: Ted S. Maikle, Esq. and F. Chet Taylor, Esq., of Fredrikson & Byron, P.A., Minneapolis, Minnesota.

For Respondent: G. Marc Whitehead, Esq. and Scott E. Richter, Esq. of Popham, Haik, Schnobrich & Kaufman, LTD., Minneapolis, Minnesota.

CASE INFORMATION

Statement of Claim filed on May 9, 1991.

Claimant's Submission Agreement signed on May 6, 1991.

Statement of Answer filed by Respondent Dean Witter Reynolds, Inc. on July 23, 1991.

Respondent's Submission Agreement signed on June 24, 1991.

HEARING INFORMATION

Pre-Hearing Conferences: January 7, 1992 for one (1) session.
January 22, 1992 for one (1) session.
January 24, 1992 for one (1) session.
January 29, 1992 for one (1) session.

Hearing Dates/Sessions: February 4, 1992 for two (2) sessions.
February 5, 1992 for two (2) sessions.
February 6, 1992 for two (2) sessions.
February 22, 1992 for three (3) sessions.

Hearing Location: Minneapolis, Minnesota.

CASE SUMMARY

Francis K. and Audrey B. Tyra ("Claimants") alleged that Dean Witter ("Respondent") through its broker, placed the Claimants in several unsuitable high-risk investments and churned the Claimants account. Claimants further alleged that they were unsophisticated investors who wanted most of their funds invested in safe, more conservative investments. Claimants alleged that Respondent breached its fiduciary duty and negligently supervised its broker.

Respondent Dean Witter Reynolds, Inc. denied the claim. More specifically, Respondent alleged that the Claimants account was properly supervised. Respondent further alleged that Claimants were sophisticated and that they controlled and directed the investments in their account and understood the risks. Respondent asserted the Statute of Limitations as one of its defenses.

RELIEF REQUESTED

Claimants requested stock commissions in the amount of \$19,171.15; options trading losses and options commissions in the amount of \$443,903.21; margin interest paid in the amount of \$25,738.96; interest on lost use of money in the amount of \$170,287.81; attorney's fees and costs in the amount of \$329,550.57; plus treble damages.

Respondent requested that the Claimant's claims should be denied in all respects.

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.

The panel decided that the official copy of the hearing will be the court reporter transcript.

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, Inc. shall be and hereby is liable for and shall pay to the Claimants compensatory damages in the amount of \$150,000.00;
2. Respondent Dean Witter Reynolds, Inc. shall be and hereby is liable for and shall pay to the Claimants attorney's fees and expenses in the amount of \$110,000.00. Attorney's fees are awarded pursuant to M.S. 80A.23 subd. 2
3. The claim for treble damages is denied.

FORUM FEES

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

4 Pre-hearing conference sessions x \$300= \$1200

9 hearing sessions X \$1000= \$9000 minus hearing session deposit of \$1000= net \$8000 due.

All Forum fees Assessed Against Respondent Dean Witter Reynolds, Inc.

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

By the Arbitration Panel:

Dated:

Peter W. Anson, Esq.
Public Arbitrator, Chairman

Arthur L. Sirkin
Arthur L. Sirkin, Esq.
Public Arbitrator

Mar 24, 1992

Donald F. James
Industry Arbitrator

FORUM FEES

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

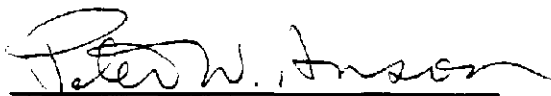
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Fees are payable to the National Association of Securities Dealers, Inc.

By the Arbitration Panel:



Peter W. Anson, Esq.
Public Arbitrator, Chairman

Dated:

3-24-92

Arthur L. Sirkin, Esq.
Public Arbitrator

Donald F. James
Industry Arbitrator

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By the Arbitration Panel:

Dated:

Peter W. Anson, Esq.
Public Arbitrator, Chairman

Arthur L. Siskin, Esq.
Public Arbitrator



Donald F. James
Industry Arbitrator

March 24, 1992