

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

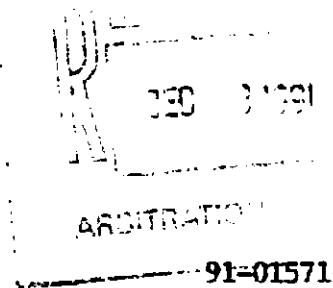
Evelyn Jackson

Claimant

and

Dean Witter Reynolds, Inc. & Lee Felicetta

Respondents



REPRESENTATION OF PARTIES

Claimant Evelyn Jackson appeared and was represented by Mark O' Boyle, Esq. of Zelle & Larson, Minneapolis, Minnesota.

Respondents Dean Witter Reynolds, Inc. and Lee Felicetta appeared and were represented by Wendy R. Robinson, Esq. of Dean Witter Reynolds, Inc., San Francisco, California.

CASE SUMMARY

In a Statement of Claim filed with the National Association of Securities Dealers, Inc. ("NASD") on or about May 20, 1991, Claimant Evelyn Jackson ("Claimant") alleged that Respondent Dean Witter Reynolds, Inc. ("Dean Witter") through its agent, Respondent Lee Felicetta ("Felicetta") sold an inappropriate investment to Claimant and in the process omitted material risk factors of the investment, and, failed to gain knowledge of Claimant's status in persuading Claimant to enter into the investment.

More specifically, Claimant alleged that Felicetta sold Claimant Dean Witter High Yield Securities, Inc. which Claimant alleged invests in what is commonly known as "junk bonds." Claimant alleged the following violations in connection with the purchase of said securities: (1) Section 10(b) and 10(b)(5) of the Securities and Exchange Act of 1934, (2) NASD Rules of Fair Practice, (3) Minnesota Statute Section 325F.69, (4) Breach of fiduciary duty, (5) Breach of duty of due care, and (6) Suitability.

In a joint Statement of Answer filed with the NASD on or about July 15, 1991, Respondents Felicetta and Dean Witter denied the allegations in the claim and alleged that Claimant's allegations grossly misrepresent the facts in this matter. Respondents further alleged that the complaint is time-barred because of applicable statutes of limitations.

More specifically, Respondents alleged that Claimant said she was willing to accept the risk involved in purchasing said securities in order to attempt the higher return, rather than not having any possibility of growth to her principal. Respondents alleged that Claimant met with Felicetta and told him she had studied the material, and after asking some additional questions regarding the investments, Claimant told Felicetta that she would accept his recommendations. Respondents alleged that Claimant never complained upon receipt of notices that her investments were declining in market value.

Respondents alleged that the complaints under Section 10(b) and 10(b)(5), and the NASD Rules of Fair Practice are time barred. Respondents additionally alleged that the claim is barred by the doctrines of ratification, waiver, estoppel, laches, and the statute of limitations.

OTHER ISSUES

Claimant and Respondents agreed at the hearing that the Section 10(b) and Section 10(b)(5) claim is time barred pursuant to the statute of limitations and Claimant voluntarily dropped said claim.

RELIEF REQUESTED

Claimant requested actual damages in the amount of \$41,122.89 plus interest beginning from February 1987, plus attorney's fees and any other further relief deemed just and equitable under the circumstances.

Respondents requested that the claim be dismissed in its entirety with prejudice, and that costs be awarded to Respondents in defending said complaint.

PROCEDURAL MATTERS

On November 6, 1991 in Minneapolis, Minnesota during a hearing lasting a total of two sessions, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed on May 9, 1991 by Claimant Evelyn Jackson, on June 28, 1991 by Wendy Robinson on behalf of Respondent Dean Witter Reynolds, Inc., and on June 20, 1991 by Respondent Lee Felicetta. Arbitrators also met for deliberations on November 7, 1991.

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 original(s) remain on file with the NASD.

AWARD

The arbitration panel, having considered the pleadings, the testimony, and the evidence presented at the hearing, has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondents Dean Witter Reynolds, Inc. and Lee Felicetta, jointly and severally, shall be and hereby are liable for and shall pay to the Claimant Evelyn Jackson actual damages in the amount of Ten Thousand Dollars and No Cents (\$10,000);

2. No interest shall be awarded;

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

4. Pursuant to Section 43(c) of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall retain the nonrefundable filing fee in the amount of \$150 and shall retain the hearing session deposit in the amount of \$500 previously deposited with the NASD by the Claimant. Respondents, jointly and severally, shall reimburse to the Claimant \$650 which was the amount previously deposited with the NASD. Respondents, jointly and severally, shall pay to the NASD additional forum fees in the amount of \$500.

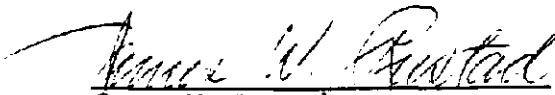
Fees are payable to the National Association of Securities Dealers, Inc.

Dated:

John W. Harrigan, Esq.
Presiding Chair
Public Arbitrator

Howard James Seesel, Jr.
Public Arbitrator

11/29/91



James W. Rustad
Industry Arbitrator

Sharon

AWARD

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Dated:

12/12/91

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Presiding Chair
Public Arbitrator

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Dated:

Nov 30 1991

John W. Harrigan, Esq.
Presiding Chair
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