

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

National Association of
Securities Dealers, Inc.
NASD Financial Center
33 Whitehall Street
New York, N.Y. 10004
FAX (212) 858-4389

In the Matter of the Arbitration Between

Name of Claimant

Scott A. Mehring

vs.

Case #
91-02147

Name of Respondents

Dean Witter Reynolds Inc.
Thomas O'Neil
Scott Seig

REPRESENTATION

For Claimant: Anthony Hom, Esq.

For Respondent: Melinda Socol Herbst, Esq., in-house counsel.

CASE INFORMATION

Statement of Claim filed: July 10, 1991.

Amended Statement of Claim filed: August 08, 1991.

Claimant's Submission Agreement signed on: August 01, 1991.

Statement of Answer filed by Respondents,, on: September 20, 1991.

Respondent's, Dean Witter Reynolds, Inc., Submission Agreement signed on:
September 17, 1991.Respondent's, Thomas O'Neil, Submission Agreement signed on: September 16,
1991.

Respondent's, Scott Seig, Submission Agreement signed on: September 13, 1991.

HEARING INFORMATION

Hearing Date/Hearing Sessions: February 11, 1992 - Two sessions
February 24, 1992 - Two sessions.

Hearing Location: Philadelphia, Pennsylvania.

CASE SUMMARY

Claimant, Scott A. Mehring, alleges that at the time he opened an account
with Respondent, Dean Witter Reynolds, Inc., he suffered a head trauma as a
result of a motor cycle accident which left him totally disabled at twenty

six years old. Claimant further alleges that he was receiving \$648.00 in social security disability benefits and had received a \$60,000.00 settlement as a result of the accident.

Claimant further alleges that Respondent, Thomas O'Neil, grossly misrepresented his investment objective and did so without Claimant's consent or authorization. Claimant also alleges that Respondent, O'Neill, solicited the purchase of 1000 shares of Cryodynamics, a speculative stock, made other unsuitable recommendation and cause him to trade options. Claimant states that Mr. O'Neill stated that he had inside information and failed to provide Claimant with options disclosure statement. Claimant also states that Mr. Seig made purchases in his account without authorization.

Claimant argues that Respondents breached their fiduciary duties, engaged in fraud and that the firm failed to properly supervise Mr. O'Neill. Claimant also argues that Respondents knew or should have known about Claimant's injury and his financial condition at the time.

Respondents specifically deny each and every allegation and claim of wrongdoing. Respondents allege that Claimant's stepfather, who also invests in penny stocks, referred him to Mr. O'Neill. Respondents allege that Mr. O'Neill recommended that Claimant developed a portfolio similar to his and that Claimant instead stated that he wanted to engage in speculative and active trading. Respondents also allege that Claimant did not appear to be mentally disabled or uninformed about his investments. Rather, Respondents argue that Claimant "would call and berate O'Neil and his sales assistant over minor details" which is why Mr. O'Neill ultimately resigned from Claimant's account. Respondents also allege that even after Claimant transferred his account to another firm, he continued to do business with Dean Witter.

RELIEF REQUESTED

Claimant requests an award of \$10,593.00 plus interest from the date of the loss to the date of the hearing, costs incurred, \$50,000.00 in punitive damages and any other relief the panel may deem just and fair.

Respondents request that the claims be dismissed in their entirety and that costs be assessed against the Claimant.

OTHER ISSUES CONSIDERED AND DECIDED

On January 20, 1992, Respondents filed a Motion to Dismiss and/or Strike Exhibits. The basis of the motion to Dismiss was that the claim was barred by applicable state and federal statutes of limitation, the doctrines of waiver, estoppel, ratification, failure to mitigate and the "second investment rule". Claimant filed opposition papers on February 03, 1992.

This arbitrator reserve decision on the Motion.

AWARD

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

1. The Motion to Dismiss on the ground that the claims are time barred, is granted.

FORUM FEES

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

1. Claimant is assessed \$150.00 non-refundable filing fee;
2. Forum fees in the amount of \$2,000.00 for four hearing sessions at \$500.00 per session are assessed and shall be borne by the Claimant;
3. Claimant shall receive a credit of \$650.00 which was previously deposited and shall remit to the NASD \$1,500.00.

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

Concurring Arbitrator's Signature

Name


Richard B. Leden, Esq.

Public/Chairperson

Executed on

~~Date of Decision:~~

2 March 1992

Date of Decision: March 9, 1992