

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(s)

Richard & Lena Campagna

91-02294

Name of Respondent(s)

Dean Witter Reynolds Inc.
John Egan

REPRESENTATION

For Claimant: Andrew Miller, Esq. of Astor, Weiss & Newman.

For Respondent: Edward W. Larkin, Esq. of Dean Witter Reynolds, Inc.

CASE INFORMATION

Statement of Claim filed: July 3, 1991.

Claimant's Submission Agreement signed on: July 3, 1991.

Joint Statement of Answer filed by Respondent, Dean Witter Reynolds, Inc. and
Respondent John Egan on: September 19, 1991.

HEARING INFORMATION

Pre-Hearing Conference: March 9, 1992.

Hearing Dates/Sessions: March 18, 1992 - Two Sessions.
May 7, 1992 - One Session.

Hearing Location: NASD Offices, Philadelphia, PA.

CASE SUMMARY

Claimants, Richard and Lena Campagna ("Claimants"), alleged that they opened three accounts with Respondent, Dean Witter Reynolds, Inc. ("Dean Witter"), and Respondent, John Egan ("Egan"), was their account representative. Claimants alleged that they told Egan they were not sophisticated investors and they did not want to take a great deal of risk. Claimants alleged that Egan recommended Dean Witter High Yield Securities Fund ("High Yield Fund") since it was diversified. Claimants alleged that it was improper to invest 100% of all three accounts in this fund since it consisted of junk bonds. Claimants alleged that when they noticed the value of their shares declining,

they voiced their concerns to Egan several times. Claimants alleged that at all times Egan recommended that they keep the shares because they would regain their value.

Claimants alleged that they subsequently demanded that their shares be sold. Claimants alleged that Egan persuaded them to sell one half of their shares, and in fact, one half of the shares were sold from the third account they maintained. A few weeks later, Claimants demanded that the balance of the shares be sold and, in fact, all Claimants shares in all three accounts were sold.

Claimants alleged that as a result of Egan's advice not to sell the shares despite their insistence that he do so, they lost \$43,373.63.

Respondents maintained that Egan met with the Claimants, reviewed their investment objectives and recommended the High Yield Fund as a suitable investment. Respondents maintained that Claimants were fully advised of the material facts regarding the Fund and at no time did Claimants indicate that they did not understand the nature of the investment. Respondent maintained that the Fund is a diverse portfolio and was designed to decrease risk. Respondents maintained that Claimants were aware that the value of the shares could fluctuate and they had no complaint when the shares increased in value. Respondents maintained that when Egan advised Claimants not to sell their shares, he did not guarantee that the shares would increase in value. Respondents maintained that when Claimants instructed Egan to sell half of their shares in the third account, he executed the order and promptly followed any other instructions given to him by Claimants.

RELIEF REQUESTED

Claimants requested actual damages in the amount of \$43,373.63 and punitive damages in the amount of \$100,000.

Respondents requested that the claims be dismissed in their entirety and that costs be assessed against the Claimants.

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.

AWARD

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

1. Pursuant to the by-laws of the NASD, the arbitrators determined that Dean Witter Reynolds, Inc. and John Egan were required to submit to this arbitration, notwithstanding their failure to submit executed Submission Agreements. Therefore, Dean Witter and Egan are bound by this panel's rulings and determinations.
2. Claimant's claim is denied in its entirety.
3. All other claims and counterclaims are hereby dismissed in their entirety.

FORUM FEES

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

1. Respondent, Dean Witter Reynolds, Inc., is hereby assessed the following fees:

Filing Fee:	\$ 200.00
Pre-hearing Conference:	\$ 300.00
March 18, 1992 - 2 hearing Sessions x \$750.00:	\$1,500.00
May 7, 1992 - 1 Session x \$750.00:	\$ 750.00
	<u>\$2,750.00</u>

2. Accordingly, Respondent, Dean Witter Reynolds, Inc., is directed to reimburse Claimants the sum of \$950.00 which represents the non-refundable filing fee of \$200.00 and a hearing session deposit of \$750.00 already paid by Claimants to the NASD. Additionally, Dean Witter is directed to pay the sum of \$1,800.00 to the NASD.

Concurring Arbitrator's Signature
Charles J. Bloom, Esq.



Public Chairperson

Date of Decision June 16, 1992