

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between)

Name of Claimant(s))

Alan Brown)

Name of Respondent(s))

Dean Witter Reynolds, Inc.)

Case No. 91-02354

REPRESENTATION

Claimant, Alan Brown ("Brown") was pro se.

For Respondent, Dean Witter Reynolds, Inc. ("Dean Witter"): Edward Larkin, Esq. of Dean Witter Reynolds.

CASE INFORMATION

Statement of Claim filed: July 31, 1991. Claimant's Submission Agreement signed: July 19, 1991.

Respondent's Statement of Answer filed: October 2, 1991. Respondent's Submission Agreement signed by Edward Larkin, Esq. July 13, 1992, on behalf of Dean Witter.

HEARING INFORMATION

On July 14, 1992, in Fort Lauderdale, Florida, a hearing lasting two (2) sessions was conducted.

CASE SUMMARY

Claimant alleged that Respondent was liable for churning and unauthorized trading of commodities futures.

Respondent denied all allegations of wrongdoing and alleged that it violated no duty to Claimant, the recommendations were consistent with Claimant's investment objectives, Claimant was advised of the risks, and all trades were authorized by Claimant and were not excessive.

Respondent alleged the affirmative defenses of estoppel, waiver, preclusion, statutes of limitation, laches, failure to mitigate damages, market conditions were responsible for the losses and punitive damages are not awardable under New York Law.

RELIEF REQUESTED

Claimant requested damages in the amount of \$95,474.00, plus treble damages and costs for a total requested amount of \$287,992.00

Respondent requested dismissal of the claim.

OTHER ISSUES CONSIDERED & DECIDED

1. This Panel finds that, in view of the ruling made on the merits of the case and contained in paragraph numbers 1 and 2, below, the issue of the Statute of Limitations is considered moot.

2. 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, the arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. Respondent, Dean Witter, is found not liable and, therefore, all claims against it are hereby dismissed.
2. Claimant's request for treble damages and costs is denied.

OTHER COSTS

The parties shall each bear all other costs and expenses incurred by them in connection with this proceeding including attorney's fees.

FORUM FEES

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the Panel has assessed forum fees in the amount of \$1,500.00 (two sessions x \$750.00 per session). Claimant is hereby assessed \$1,500.00, for which the NASD shall retain the \$1,050.00 previously deposited in partial satisfaction thereof.

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

Concurring Arbitrators' Signatures

/s/
Sidney M. Dublin, Esq.

Public

/s/
Sterling F. Tremayne

Public

/s/
John N. Breazeale

Industry

Date of Decision: July 31, 1992