

PUBLIC

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

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| In the Matter of the Arbitration Between | : | |
| Karen G. Gianforte | : | |
| | : | |
| Claimant | : | CASE #91-02575 |
| | : | AWARD |
| vs. | : | |
| Dean Witter Reynolds, Inc. | : | |
| Neal T. Hughes | : | |
| | : | |
| Respondents | : | |

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on August 20, 1991, Claimant Karen G. Gianforte by and through her counsel, Richard F. Berkey, Esq., Sole Practitioner, Turnersville, New Jersey, alleged that in 1988, Mr. Larry Howe took over handling her funds received from a negligence settlement, at which time, he introduced her to Respondent Neal T. Hughes, Account Executive with Respondent Dean Witter Reynolds, Inc. whereby, Respondent Neal T. Hughes was acting as partner with Mr. Howe. Claimant further alleged that in 1989 Respondent Neal T. Hughes contacted her to sign a form that she owned LA GEAR and subsequently in January 1990 she began calling Mr. Howe to request that he get her out of the stock market by liquidating her stocks. Claimant contended that Respondent Neal T. Hughes invested her funds in LA GEAR, Occidental Petroleum, Ford Motor Company, First Fidelity Bankcorp whereby Respondent Neal T. Hughes failed to discuss or explain these investments. Claimant further alleged that Respondent Neal T. Hughes and Dean Witter Reynolds, Inc. invested her funds in these speculative ventures which were not in line with her investment objectives of income and safety. Claimant asserted that Respondent Neal T. Hughes mishandled her funds and failed to remove her from the stock market as requested in addition to Respondent Dean Witter Reynolds, Inc. failure to supervise Respondent Neal T. Hughes, caused her to sustain losses.

Respondent, Dean Witter Reynolds, Inc. by and through their in-house counsel Edward W. Larkin, Esq., maintained that Claimant Karen B. Gianforte instructed them to accept orders for her account from Mr. Larry Howe and due to the fact that they would not be communicating with her, they required that Claimant provide written assurance to them that they could rely on the orders received from Mr. Howe, at which time, Claimant signed a

"Limited Power of Attorney Authorization to Buy and Sell." Respondent Dean Witter Reynolds, Inc. further maintained that the instructions with respect to Claimant's account were received from Mr. Howe and Respondent Dean Witter Reynolds, Inc. reasonably relied on those instructions. Respondent Dean Witter Reynolds, Inc. contended that they sent written confirmations of transactions to Claimant and monthly statements which reflected the activity in her account. Respondent further contended that the losses which are the subject of the claim were caused by market movements and economic fluctuations which were not caused by and cannot be attributed to them. Respondent Dean Witter Reynolds, Inc. asserted that they deny that they are liable to Claimant for any damages or that they violated any duty, obligation or responsibility owed to Claimant and if the investments made in Claimant's account were unsuitable, the error was made by Mr. Howe, not by Respondent Dean Witter Reynolds, Inc.

Respondent Neal T. Hughes who appeared Pro Se maintained that Claimant Karen G. Gianforte instructed him and Respondent Dean Witter Reynolds, Inc. to accept orders for her account from Mr. Larry Howe whereby Claimant signed a "Limited Power of Attorney Authorization to Buy and Sell". Respondent Neal T. Hughes further maintained that his instructions with respect to Claimant's account were received from Mr. Howe and he relied on those instructions. Respondent Neal T. Hughes contended that Respondent Dean Witter Reynolds, Inc. sent written confirmations of transactions to Claimant and monthly statements which reflected the activity in the account, at which time, Claimant did not complain about the activity in her account. Respondent Neal T. Hughes further contended that the losses which are subject of the claim were caused by market movements and economic fluctuations which were not caused by or attributed to him.

RELIEF REQUESTED

Claimant, Karen G. Gianforte requested \$9,666.14 plus attorney's fees.

Respondent, Dean Witter Reynolds, Inc. requested the claim be denied in its entirety.

Respondent, Neal T Hughes requested the claim be dismissed.

AWARD

Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Richard B. Laden, was selected to review and

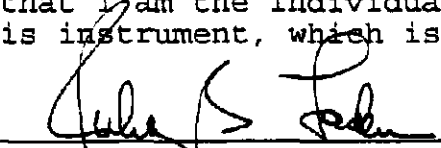
determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on February 13, 1991 and not by the Respondents as required by Sections 12 and 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure.

And, the Arbitrator, having considered the proof of the Parties, has decided and determined in full and final resolution of the issues submitted for determination as follows:

1. The claims of Claimant Karen G. Gianforte against Respondents Dean Witter Reynolds, Inc. and Neal T. Hughes are dismissed.
2. The parties shall bear their respective costs, including attorneys' fees.
3. The \$150.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant Karen G. Gianforte shall be retained by the NASD, Inc. Respondents Dean Witter Reynolds, Inc. and Neal T. Hughes are jointly and severally liable and shall pay to the Claimant the sum of \$75.00 as partial reimbursement.

AFFIRMATION

I, RICHARD B. LADEN, do hereby affirm upon my oath as arbitrator that I am the individual described herein and who executed this instrument, which is my oath and award.



Signature of Arbitrator

DATE OF DECISION: November 10, 1992