

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant(s)

John Liner

91-03676

Name of Respondent(s)

Dean Witter Reynolds, Inc.
Joel Frost

REPRESENTATION

For Claimant, John Liner ("Liner"): Sheldon Engelhard, Esq. of Vladeck, Waldman, Elias & Engelhard, P.C.

For Respondents, Joel Frost ("Frost") and Dean Witter Reynolds Inc. ("DWR"): George D. Sullivan of DWR.

CASE INFORMATION

Statement of Claim filed: November 19, 1991. Claimant's Submission Agreement signed: November 15, 1991.

Statement of Answer filed by Respondents, Frost and DWR: May 7, 1992. Respondents, Frost and DWR's Submission Agreement signed: January 15, 1993. by E.W. Larkin.

HEARING INFORMATION

On January 13, 1993 and January 5, 1994, in Fort Lauderdale, FL, Pre-Hearing Conferences lasting two (2) sessions were conducted with an arbitrator, via telephone conference call.

On January 15, 1993, January 6 and February 18, 1994, in Fort Lauderdale, FL, hearings lasting five (5) sessions were conducted.

CASE SUMMARY

Claimant alleged that Respondents were advised of his age, economic status and investment goals; that Respondents recommended the purchase of several securities: Pacific Resources, Inc., Hawaii; ISC SYST CORP.; Applied DNA SYS; Lexicon CP Com; Softech Inc.; Commonwealth Mortgage Ltd. Partnership; Borden Chemical and Plastics Ltd. Partnership; Dean Witter Government Securities Plus; and D.W.R. Mutual Fund, all of which subsequently declined in value. Claimant alleges that these securities were purchased with reliance upon Respondents' expertise and were not suitable in light of Claimant's investment objectives.

Respondents alleged that Claimant is a sophisticated investor who purchased the securities in dispute on an unsolicited basis and was furnished with current investment prospectuses for each transaction.

Respondents asserted the defenses of: the transactions were suitable for the Claimant; assumption of risk; failure to timely complain; transactions were authorized by Claimant; waiver; ratification; no misrepresentations were made; lack of intent; market conditions caused Claimant's loss; Respondent had adequate supervisory procedures; failure to state a claim; economic loss rule; and statute of limitations.

RELIEF REQUESTED

Claimant requested damages as follows in the amount of \$68,083.75 as set forth below, plus interest and attorney's fees:

Pacific Resources, Inc. Hawaii	\$2,944.95
ISC SYST Corp.	\$1,406.25
Applied DNA SYS	\$7,279.95
Lexicon C.P. Com	\$7,786.69
Softech Inc.	\$7,306.25
Commonwealth Mortgage Ltd. P/S	\$7,410.00
Borden Chemical and Plastics Lmt. P/S	\$8,000.00
	\$ 10,546.45
Dean Witter Gov't Securities Plus	\$3,838.00
D.W.R. Mutual Fund	\$8,167.21
	<u>\$1,360.00</u>
Total	\$ 68,083.75

Respondents requested that all claims be denied plus costs and attorneys fees.

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 original remains on file with the NASD.

AWARD

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

1. Respondents, DWR and Frost, are found not liable and, therefore, all claims against them are hereby dismissed.
2. Claimants request for attorney's fees is denied.
3. Respondents' request for attorney's fees and costs is denied.

FORUM FEES

1. Pursuant to Section 43(c) of the Code of Arbitration Procedure, the Panel has assessed forum fees in the amount of \$3,100.00 (2 pre-hearing conferences x \$300.00 plus 5 sessions x \$500.00).
 - A. Claimant is hereby assessed \$2,300.00 for which the NASD shall retain the \$500.00 previously deposited in partial satisfaction thereof, leaving a balance due and payable to the National Association of Securities Dealers, Inc. in the amount of \$1,800.00.

B. Respondents are hereby assessed \$800.00, jointly and severally, payable to the National Association of Securities Dealers, Inc.

2. Respondents are further assessed \$1,500.00 for postponement fees for postponement of the hearings scheduled for October 9, 1992 (\$500.00) and January 6, 1994 (\$1000.00) for which the NASD shall retain the \$500.00 previously deposited in partial satisfaction thereof, leaving a balance due and payable to the National Association of Securities Dealers, Inc. in the amount of \$1,000.00.
3. The NASD shall retain the non-refundable filing fee of \$150.00 paid by the Claimant.

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

Concurring Arbitrators' Signatures

15 /
Louise T. Jeroslow, Esq.

Public, Chairperson

15 /
Richard D. Toplin

Industry

15 /
Daniel Goodrum

Public

Date of Decision:

3/7/94