

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant(s)

Jack A. Sealey

NASD Arbitration
No.91-03682

Name of Respondent(s)

Dean Witter Reynolds, Inc.
Brian Nye

REPRESENTATION

For Claimant: Pro Se

For Respondent: Dean Witter Reynolds, Inc. - Wendy R. Robinson, Esq. Dean Witter Reynolds, Inc.

CASE INFORMATION

Statement of Claim filed: November 21, 1991

Claimant's Submission Agreement signed on: November 18, 1991

Statement of Answer filed by Respondent, on: January 16, 1992

Respondent, Dean Witter Reynolds, Inc.'s Submission Agreement signed on: January 13, 1992

HEARING INFORMATION

Pre-Hearing Conference: None

Hearing Dates/Sessions: June 18, 1992 - Two Sessions

Hearing Location: Salt Lake City, Utah

CASE SUMMARY

Claimant, alleged that he invested \$12,000.00 into a promissory note through Respondent Brian Nye (Nye). Claimant asserts that he believed that the money was apparently converted to Nye's personal use and that Respondent Dean Witter Reynolds, Inc. may have indirectly induced the transaction through its employment of Nye.

Respondent, Dean Witter Reynolds, Inc. (DWR) alleged that they had no knowledge of the promissory note offered by Nye and did not intentionally confer upon Nye the authority to solicit any transaction involving a promissory note. DWR also alleged that did not do anything or fail to do anything which would have led Nye to believe he was authorized to deal with the Claimant as Nye allegedly did. DWR policy forbids any outside business activity.

DNR also cross-claimed against Nye for indemnification.

RELIEF REQUESTED

Claimants requested recovery of \$14,000.00 plus costs and attorneys' fees.

Respondent, Dean Witter Reynolds, Inc., requested dismissal of the claim in its entirety, costs and fees, and cross-claimed against Brian Nye for indemnification.

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(s) remain on file with the NASD.

AWARD

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

1. Respondent, Dean Witter Reynolds, Inc., is liable and shall pay to claimant, Jack A. Sealey, the sum of Ten Thousand Nine Hundred Thirty Four Dollars and Fifty One Cents (\$10,934.51) plus interest thereon at the rate of 8% per annum commencing November 21, 1989 until paid in full.
2. Respondent, Dean Witter Reynolds, Inc., is also liable and shall pay to Claimant Jack A. Sealey, the sum of \$1,000.00 in reasonable attorney's fees.
3. The parties shall each bear their respective costs.
4. Respondent Brian Nye did not answer or appear at the hearing. The panel determined that Nye was not properly served under Section 25 of the Code of Arbitration Procedure and therefore the following determination is made:
 - a. The claim made against Brian Nye by Claimant Jack A. Sealey is dismissed without prejudice.
 - b. The counter-claim against Brian Nye by Respondent Dean Witter Reynolds Inc. is dismissed without prejudice.
5. The NASD shall refund the sum of \$200.00 to Respondent/Cross-claimant, Dean Witter Reynolds, Inc.

FORUM FEES

Forum Fees are offset by the initial hearing session deposits made by the parties.

ARBITRATORS

Name

Paul Moxley, Esq.
Robert Wright
Edward Schrandt

Public/Industry

Public Chairperson
Public
Industry

Concurring Arbitrators' Signatures

Paul Moxley
Paul Moxley, Esq.

DATE SERVED: 08/03/92

Robert Wright

Edward Schrandt

Date of Decision: _____