

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the matter of the Arbitration Between

Name of Claimants

Steven P. Shearing

NASD Arbitration
No. 91-03767

Name of Respondents

Dean Witter Reynolds, Inc.
Victor C. Egner

REPRESENTATION

For Claimant: Harry L. Garman, Esq. - Garman & Amdur - Rutherford, New Jersey

For Respondents, Dean Witter Reynolds, Inc. - Mark Appleton, Esq. and Charles Brega, Esq. -
Brega & Winters, P.C. - Denver, Colorado

CASE INFORMATION

Statement of Claim filed: December 2, 1991

Claimant's Submission Agreement signed: December 10, 1992

Motion to Dismiss and Statement of Answer filed by Respondents: June 14, 1993

Respondent's Submission Agreement signed: June 26, 1992

HEARING INFORMATION

Pre-Hearing Conferences	Dates / Sessions:	June 10, 1993 - One Session
		June 11, 1993 - One Session
		June 17, 1993 - One Session
		August 5, 1993 - One Session
		August 6, 1993 - One Session

Hearing Dates / Sessions:	June 21, 1993 - Three Sessions
	June 22, 1993 - Two Sessions
	June 23, 1993 - Two Sessions
	June 24, 1993 - Two Sessions
	June 25, 1993 - Two Sessions

October 26, 1993 - Two Sessions
October 27, 1993 - Two Sessions
October 28, 1993 - Three Sessions

Hearing Location: Las Vegas, Nevada

CASE SUMMARY

Claimant alleged that Respondent, Victor C. Egner, while employed by Respondent Dean Witter Reynolds, Inc., entered into a course of options trading in Claimant's account which was unsuitable and was without Claimant's authorization. Claimant also alleged that Dean Witter failed to supervise Egner when it knew or should have known that such trading was taking place.

Respondents alleged that the Claimant knew and willingly accepted the inherent risks associated with the investment strategy (index option trading) employed in his account. Respondent, Dean Witter also denies that they failed to supervise Egner in that they communicated with Claimant on numerous occasions to inquire whether Claimant had any problems with his account or that he did not agree with the investment strategies. No replies were received to said inquiries.

RELIEF REQUESTED

Claimant seeks to recover the sum of \$462,564.00 in realized losses, interest, punitive damages, costs and attorneys' fees.

Respondents seek dismissal of the claim in its entirety, costs and attorneys' fees.

The parties have agreed that the Award in this matter may be executed in either 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. Respondent, Dean Witter Reynolds, Inc., is liable and shall pay to Claimant Steven P. Shearing, the principal sum of (Thirty Eight Thousand Nine Hundred Ninety Seven Dollars and Forty Six Cents) \$38,997.46 , together with interest

thereon in the amount of Thirty Five Thousand , Ninety Seven Dollars and Sixty Cents) \$35,097.60.

2. Each and every claim of Claimant Steven P. Shearing against Respondent Victor C. Egnor is dismissed with prejudice.
3. The parties shall each bear their respective costs and fees including attorneys' fees.
4. The NASD shall refund to Claimant the \$750.00 filing fee posted.
5. Claimant's claim for punitive damages is denied.

OTHER ISSUES CONSIDERED AND DECIDED

Respondents filed a motion to dismiss the claim under Section 15 of the NASD code of arbitration Procedure and under State and Federal Statutes of limitations. After reviewing filings and hearing oral arguments on the Motion, the panel granted said motion to dismiss as to all theories of recovery except the claims made for breach of contract .

The panel also determined that it had full jurisdiction to hear all claims and motions presented by the parties and had the authority to issue binding determinations on same.

FORUM FEES

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the following forum fees are assessed:

Total Fees:

Four Pre-Hearing Conference Sessions @ \$300.00/ea.	-	\$1,200.00
<u>Eighteen Hearing Sessions \$750.00 / ea.</u>	<u>-</u>	<u>\$13,500.00</u>
Balance Due	-	\$14,700.00

The NASD shall refund to Claimant the \$750.00 hearing session deposit previously deposited.

Respondent Dean Witter Reynolds, Inc. is solely assessed and shall pay to the NASD all forum fees, as outlined above.

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

ARBITRATORS

Name.....

Alan Markizon, Esq.

Harvey Hudgins

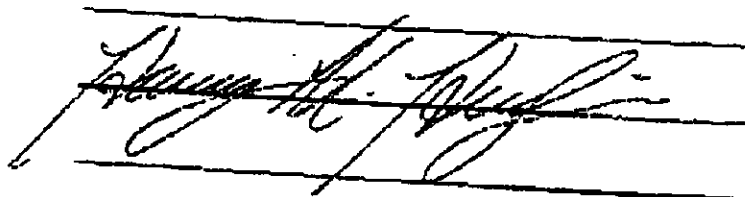
Linda Garofola, Esq.

Public / Industry

Public Chairperson

Industry Panelist

Public Panelist

Concurring Arbitrators' Signatures

Date of Decision:

Served 12/15/93