

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant(s)

Richard V. Warden

CASE NO. 91-04030

Name of Respondent(s)

Dean Witter Reynolds, Inc.

REPRESENTATION

For Claimant, Richard Warden ("Warden"): pro se.

For Respondent, Dean Witter Reynolds, Inc. ("DWR"): Carol B. Schachner, Esq. of Dean Witter Reynolds, Inc.

CASE INFORMATION

Statement of Claim filed: December 20, 1991. Claimant's Submission Agreement signed on: December 31, 1991.

Statement of Answer filed by Respondent: March 6, 1992. Respondent's Submission Agreement signed: March 5, 1992 by William B. Peterson on behalf of the firm.

HEARING INFORMATION

A Pre-Hearing Conference was held on September 11, 1992 with an arbitrator.

On December 22, 1992, in Fort Lauderdale, Florida, a hearing lasting two (2) sessions was conducted.

CASE SUMMARY

Claimant alleged that he is a relatively unsophisticated investor and that despite his stated investment objectives of safe and risk-free investments and preservation of capital, Respondent induced him, through various misrepresentations, to invest in risky products such as Dean Witter U.S. Government Securities Trust and Dean Witter Realty Growth Properties, L.P., causing him substantial losses. Respondent denied all allegations of wrongdoing and maintained that when Claimant opened his accounts with Respondent in 1985 his investment objective was income, and that prior to purchase, Claimant was apprised of the risks involved with respect to the investments complained of and was provided with prospectuses which indicated that there was no assurance that objectives would be realized.

RELIEF REQUESTED

Claimant requested damages of \$36,277.00 including punitive damages of \$10,000.00. In addition Claimant requested reimbursement of all NASD Arbitration filing fees and expenses upon completion of the arbitration and that distributions that Claimant received be deducted from the total value of the Claim and be credited to DWR.

Respondent requested that the Claim be dismissed in its entirety with costs and attorney's fees assessed against Claimant.

OTHER ISSUES CONSIDERED & DECIDED

On January 27, 1993, Claimant made a motion to re-open the hearing. After careful consideration of said motion and Respondent's response thereto, the motion was denied by the Panel on February 12, 1993.

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 the post-hearing submissions, the arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. Respondent, Dean Witter Reynolds, Inc., is found liable and shall pay to Claimant the sum of Seven Hundred Fifty Dollars and No Cents (\$750.00).
2. Claimant's Claim for punitive damages is denied.
3. All other Claims are hereby denied.

OTHER COSTS

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

FORUM FEES

Pursuant to Section 43c of the Code of Arbitration Procedure, the Panel has assessed forum fees in the amount of \$1,100.00 (One (1) pre-hearing conference X \$300.00 plus two (2) hearing sessions X \$400.00.)

1. Claimant is hereby assessed \$550.00 for which the NASD shall retain the \$400.00 previously deposited in partial satisfaction thereof leaving a balance due to the NASD of \$150.00.

2. Respondent is hereby assessed forum fees in the amount of \$550.00 payable to the NASD, Inc.

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

Concurring Arbitrators' Signatures

/s/

Casey W. Mills, Esq.

Public

/s/

Peter J. Lavezzoli

Industry

/s/

Stephen G. Melcer, Esq

Public

Date of Decision: March 4, 1993