

PUBLIC

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between :
:
Walter D. Kuver :
:
Claimant :
:
vs. : CASE #92-00163
AWARD
Dean Witter Reynolds, Inc. :
Respondent :
vs. :
Daryl R. Nitkowski :
Respondent :

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on January 15, 1992, Claimant Walter D. Kuver, who appeared Pro Se, alleged that Respondent Dean Witter Reynolds, Inc. misrepresented the security of his investment in First Federal Savings Bank of Arizona Zero Coupon Bonds, and that it should be accountable for his losses related to the unexpected bond call which caused a loss.

Respondent Dean Witter Reynolds, Inc., through its counsel, Edward W. Larkin, Esq., maintained that it is not liable to the Claimant since it is not liable for market fluctuations in the economy and the turmoil in the banking industry. Respondent Dean Witter Reynolds, Inc. further maintained that the actions of the Resolution Trust Company to repudiate the bonds could not be anticipated by the Respondent, and that the decision to repudiate the bonds was not any wrongdoing of Dean Witter Reynolds, Inc.

In a Third Party Claim filed by Dean Witter Reynolds, Inc. against Respondent Daryl R. Nitkowski, it alleged that Respondent Daryl Nitkowski was the account executive who handled the Claimant's account, and that all statements concerning this investment were made by him. Dean Witter Reynolds, Inc. further alleged that Respondent Daryl Nitkowski made assurances to the Claimant regarding insured premium, which were not made by Dean Witter Reynolds, Inc., and therefore, he should be held responsible, not Dean Witter Reynolds, Inc.

In his answer to the Third Party Claim, Respondent Daryl R. Nitkowski, through his counsel, Ralph S. Blascovich, Esq., of San Francisco, CA, maintained that all information he provided to the Claimant was provided by the Bond trader at Respondent Dean Witter Reynolds, Inc., and that the firm never informed him there would be a premium included in the purchase price of the Zero Coupon bonds, therefore he did not advise Claimant Walter D. Kuver that any premium would be insured against risk.

RELIEF REQUESTED

Claimant Walter D. Kuver requested \$3,643.00 in actual damages, plus return of the NASD filing fee.

Respondent Dean Witter Reynolds, Inc. requested the claims of the Claimant be dismissed, or that its Third Party Claim be granted, for an amount equal to the claim assessed by the Claimant.

Respondent Daryl R. Nitkowski requested the Third Party Claim be dismissed.

AWARD

Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Sandra L. Malek, Esq., was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on January 10, 1992 and not signed by the Respondent Dean Witter Reynolds, Inc. or Third Party Respondent Daryl R. Nitkowski as required by Sections 12 & 13 of the NASD Code of Arbitration Procedure.

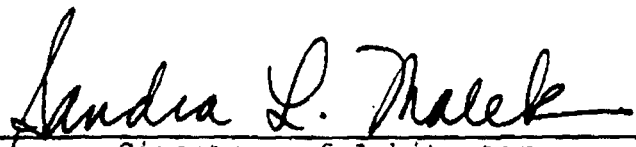
And, the Arbitrator, having considered the proof of the Parties, has decided and determined in full and final resolution of the issues submitted for determination as follows:

1. Respondent Dean Witter Reynolds, Inc. is liable and shall pay to Claimant Walter D. Kuver \$3,343.00 in actual damages.
2. The Third Party Claim of Dean Witter Reynolds, Inc. against Daryl R. Nitkowski is dismissed in its entirety.
3. The parties shall bear their respective costs.

4. The \$125.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant shall be retained by the NASD, Inc. Respondent Dean Witter Reynolds, Inc. shall pay \$125.00 to the Claimant as reimbursement.

AFFIRMATION

I, SANDRA L. MALEK, ESQ., 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: September 2, 1992