

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Ervin Frank

NASD Arbitration
No.92-00175

Name of Respondent

Dean Witter Reynolds, Inc.
David Clifford

REPRESENTATION

For Claimant: Mitchell S. Ostwald, Esq., Seeman, Seeman & Ostwald, Sacramento, California.

For Respondents: David W. Studley, Esq., Dean Witter Reynolds, Inc., San Francisco, California.

CASE INFORMATION

Statement of Claim filed: January 17, 1992

Claimant's Submission Agreement signed: December 31, 1992

Joint Statement of Answer filed: March 16, 1992

Respondents' Submission Agreements signed:

Dean Witter Reynolds:	March 13, 1992
David Clifford:	March 18, 1992

HEARING INFORMATION

Pre Hearing Telephone Conference:

July 17, 1992	-	1 session
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Hearing Dates/Sessions:

July 28, 1992	-	2 sessions
July 29, 1992	-	3 sessions
December 15, 1992	-	2 sessions

Hearing Location:

San Francisco, California

CASE SUMMARY

Claimant alleged fraud, breach of fiduciary duty, misrepresentation, recommending unsuitable securities and failure to follow instructions with respect to investments in limited partnerships and a corporate bond mutual fund.

Respondents denied all allegations of wrongdoing, and asserted that Claimant is not entitled to an award of damages because he participated in the selection of his investments, waited nearly five years before filing this claim, and never expressed any complaint to Respondents about the securities in his account.

RELIEF REQUESTED

Claimant requested out-of-pocket damages of \$65,000.00, plus portfolio damages of \$65,000.00 plus interest at 10% from 1987 to the present, \$25,000.00 on the Parker and Parsley limited partnership investment, punitive damages, prejudgment interest, costs of arbitration and attorney's fees.

Respondents requested dismissal of all claims.

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 originals remain 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 are jointly and severally liable for and shall pay to Claimant the sum of \$15,642.00 on the Dean Witter Reynolds High Yield Securities investment.
2. Respondents are jointly and severally liable for and shall pay to Claimant the sum of \$15,126.00 on the Dean Witter Reynolds High Income Advantage Trust investment.
3. Respondents are jointly and severally liable for and shall pay to Claimant the sum of \$23,578.00 on the Parker and Parsley 87-B limited partnership investment. Claimant is to deliver to Dean Witter Reynolds his shares in the Parker and Parsley 87-B limited partnership.
4. Respondents are jointly and severally liable for and shall pay to Claimant the sum of \$2,000.00 for costs.
5. The claims for interest, punitive damages and attorney's fees are dismissed.

FORM FEES

Pursuant to Section 43c of the Code of Arbitration Procedure, the NASD shall refund the \$1,000.00 hearing session fee previously deposited by Claimant.

All forum fees are assessed against Dean Witter Reynolds as follows:

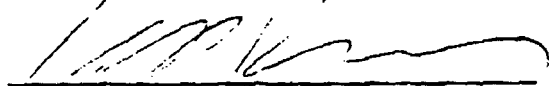
One pre-hearing conference @ \$300.00/session =	\$ 300.00
<u>7 hearing sessions @ \$1,000.00/session=</u>	<u>\$7,000.00</u>
Balance Due=	\$7,300.00

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

ARBITRATORS

Public/Industry
Public Chairperson
Public Panelist
Industry Panelist

Arbitrators' Signatures


Walter P. Hitchcock

Decision: _____

Served Jan 13, 1993

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ARBITRATORS

Name

Public/Industry
Public Chairperson
Public Panelist
Industry Panelist

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Daniel M. Yamahon

Date of Decision: _____

Served Jan 13, 1993

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ARBITRATORS

Public/Industry
Public Chairperson
Public Panelist
Industry Panelist

Concurring Arbitrators' Signatures

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Frank Weaver

Date of Decision: _____

Served Jan 13, 1993