

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Name of Claimants

Theodore C. Hadgis  
Theodore C. Hadgis DDS PC  
Theodore C. Hadgis Employee Pension Trus  
Theodore C. Hadgis Profit Sharing Trust

92-01258

Name of Respondents

Dean Witter Reynolds Inc.  
Philip Sloan

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**REPRESENTATION**

For Claimant: Anthony V. Trogan, Esq. of Weisman, Trogan, Young & Schloss, P.C.

For Respondent: Mark R. Werder, Esq. and Steven Ribiat, Esq. of Honigman Miller Schwartz and Cohn.

**CASE INFORMATION**

Statement of Claim filed: April 9 1992.

Claimant Theodore C. Hadgis Submission Agreement signed on: April 8, 1992.

Claimant Theodore C. Hadgis DDS PPC's Submission Agreement signed on: May 19, 1992.

Claimant Theodore C. Hadgis Employee Pension Trust's Submission Agreement signed on: April 8, 1992.

Claimant Theodore C. Hadgis Profit Sharing Trust's Submission Agreement signed on: May 19, 1992.

Statement of Answer filed by Respondent on: August 11, 1992.

Respondent Dean Witter Reynolds Inc.'s Submission Agreement signed on: July 29, 1992

Respondent Philip Sloan's Submission Agreement signed on: August 4, 1992

### **HEARING INFORMATION**

Hearing Dates/Sessions:     April 26, 1993/Two Sessions  
                                     April 27, 1993/Two Sessions  
                                     May 4, 1993/Two Sessions

Hearing Location: American Arbitration Association offices in Southfield, Michigan.

### **CASE SUMMARY**

Claimants allege that Claimant, Theodore C. Hadgis "(Hadgis)" expressed a desire for modest trading in safe, long-term investments with respect to each of the accounts in question. Claimants further allege that Respondents made unsuitable investments, excessively traded the accounts and actively misrepresented the status and results of the accounts. Claimants allege that this conduct violated the following rules: Rule 405 of the New York Stock Exchange, various sections of Article III and Appendix E of the NASD Rules of Fair Practice, Section 1962 of Title 18 USC("RICO Statute"), Rule 10b-5 and MCLA 451.501. Claimants further allege that Respondents actions constituted common law fraud and that Respondents breached their fiduciary duties.

Respondents maintain that Hadgis is a sophisticated investor who articulated an investment objective for speculative and aggressive investments and treated all of the accounts as the same. Respondents also maintain that all transactions for the accounts were done with full disclosure and were consistent with Claimants' investment objectives and instructions. Respondents further maintain that Claimants' claims are so vague that it is impossible to specifically respond to them.

### **RELIEF REQUESTED**

Claimants requested the following relief: damages in the amount of \$185,000.00 plus interest at a suggested rate of 12%, costs, attorneys' fees, exemplary damages, punitive damages, RICO damages and the rescission of all transactions.

Respondents requested that Claimants be required to submit a more particularized statement specifying the particular investments and facts which form the basis for his purported claims.

**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) The Statement of Claim is hereby dismissed in its entirety.
- 2) The claim for punitive damages is hereby dismissed.
- 3) Each party shall bear their respective costs of this action including attorneys' fees.

**FORUM FEES**

Pursuant to Section 43c of the Code of Arbitration Procedure, the following Forum Fee(s) are assessed.

\$200.00	Non-refundable filing fee
\$4,700.00	Hearing session fees(6 sessions X \$750)

Total forum fees in the amount of \$4,900 are assessed against the parties in the following manner:

- 1) \$3,675 is hereby assessed against the Claimant. Claimant is entitled to offset this amount with the \$950 previously deposited with the NASD, Inc. Claimant is directed to pay the balance of \$2,725 to the NASD, Inc.
- 2) \$1,225 is hereby assessed against Respondent, Dean Witter Reynolds, Inc. Dean Witter is directed to pay this sum to the NASD, Inc.

Concurring Arbitrator's Signature  
Name

  
Gordon F. Knight, PhD

Public Arbitrator

Date of Decision: June 11, 1993

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Concurring Arbitrator's Signature  
Name

Industry Arbitrator

  
Frank G. Bank

Date of Decision: June 11, 1993

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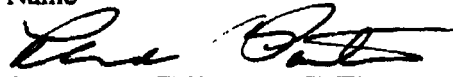
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Concurring Arbitrator's Signature  
Name



Richard G. Porter, Esq.

Public Arbitrator

Date of Decision: June 11, 1993