

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Jack Michael Davis, Executor,
Estate of Opel Lee Davis

NASD Arbitration
No. 92-01319

Name of Respondents

Dean Witter Reynolds, Inc.
Cheryl Simas
Marion Buljan

REPRESENTATION

For Claimant: Richard Sacks, Investors Recovery Services, Novato, Ca.

For Respondents: David Restiano, Esq. Dean Witter Reynolds, Inc.

CASE INFORMATION

Statement of Claim filed: April 15, 1992

Claimant's Submission Agreement signed on: February 20, 1992

Joint Statement of Answer filed by Respondents on: June 5, 1992

Respondent, Dean Witter Reynolds Inc.'s Submission Agreement signed on: June 1, 1992

Respondent, Cheryl Simas' Submission Agreement signed on: June 15, 1992

Respondent, Marion Buljan's Submission Agreement signed on: June 16, 1992

HEARING INFORMATION

Hearing Date/Sessions: December 16, 1992 - Two Sessions

Hearing Location: San Francisco, California

CASE SUMMARY

Claimant, alleged that Respondent, Cheryl Simas, while employed by Respondent, Dean Witter Reynolds, Inc., under the supervision of Respondent, Marion Buljan, advised Opel Davis to sell an investment in the Franklin U. S. Government Securities Fund and buy an investment in Dean Witter High Yield Securities fund. The high yield fund subsequently lost value. Claimant also alleged that the investment was unsuitable in light of Opel Davis' age, experience and investment objectives.

Respondents, Simas, alleged that she did not recommend the sale of the Franklin Fund and actually advised Opal Davis to retain that investment. Respondent, Simas, alleged that Davis wanted to invest in the High Yield fund for additional income.

RELIEF REQUESTED

Claimant requested return of the capital loss of \$23,228.00, \$8,000.00 in recovery fees and interest at 8% for a total claim of \$34,908.00.

Respondents requested dismissal of the claim in its entirety plus costs.

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. Each and every claim of Claimant, Jack Michael Davis, Executor for the Estate of Opal Lee Davis against Respondent Dean Witter Reynolds, Inc., is dismissed.
2. Each and every claim of Claimant, Jack Michael Davis, Executor for the Estate of Opal Lee Davis against Respondent, Cheryl Simas, is dismissed.
3. Each and every claim of Claimant, Jack Michael Davis, Executor for the Estate of Opal Lee Davis against Respondent, Marion Buljan, is dismissed.
4. The parties shall each bear their respective costs and fees, including recovery fees.

FORUM FEES

Pursuant to Section 43c of the Code of Arbitration Procedure, the following Forum Fees are assessed:

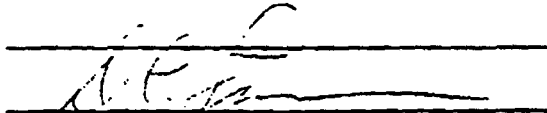
1. The NASD shall retain the \$400.00 hearing session deposit as an assessment for one hearing session.
2. Dean Witter Reynolds, Inc. is assessed \$400.00 for one hearing session.

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

ARBITRATORS

Public/Industry
Public Chairperson
Public Panelist
Industry Panelist

Concurring Arbitrators' Signatures



Date of Decision: 12-16-92

Served 1/7/93