

PUBLIC

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

Joe DiRusso & Rosa DiRusso

92-01598

Name of Respondent

Dean Witter Reynolds Inc.

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on May 11, 1992, Claimants Joe & Rosa DiRusso, through their counsel Dennis J. Harris, Esq., Dearborn Heights, MI, alleged that Respondent Dean Witter Reynolds, Inc., through its registered representative, Ron Wendt, made unsuitable recommendations to purchase securities such as Borden Chemical, Tyson & McDonalds. The Claimants further alleged that the Respondent liquidated their Tyson and Borden Chemical holdings without their consent or authorization, and also liquidated 400 shares of Bank South stock without their approval or consent. The Claimants contended that they have suffered losses due to the Respondent's negligence and should, therefore, be compensated.

Respondent Dean Witter Reynolds, Inc., through its in-house counsel, William B. Peterson, Esq., maintained that all transactions were suitable for the Claimants' investment objectives and financial status and were consistent with their financial goals. The Respondent further maintained that all transactions were discussed with the Claimants and effectuated with their full knowledge and consent. The Respondent contended that there was no intent by Dean Witter Reynolds, Inc. or Mr. Wendt to defraud the Claimants, and that it should not be held liable for any losses they have experienced.

RELIEF REQUESTED

Claimants Joe & Rosa DiRusso requested \$5,000.00 in actual damages.

Respondent Dean Witter Reynolds, Inc. requested that the claims of the Claimants be dismissed, and that it be awarded it's costs.

AWARD

Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Mauricio Kohn, was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimants on August 3, 199~~2~~₂ and by the Respondent on October 12, 1992.

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 \$2,637.17 in actual damages, plus interest at the rate of 7.30% per annum from September 28, 1990 to the date of payment of the award.
2. The parties shall bear their respective costs.
3. The \$150.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimants shall be retained by the NASD, Inc. Respondent Dean Witter Reynolds, Inc. is liable and shall pay \$150.00 to the Claimants as reimbursement of the fee.

AFFIRMATION

I, MAURICIO KOHN, 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: April 16, 1993