

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between

Jeffrey L. Flowers

Claimant

CASE #92-01781
AWARD

vs.

Dean Witter Reynolds, Inc.
Jack Zager

Respondents

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on May 28, 1992, Claimant Jeffrey L. Flowers who appeared Pro Se, alleged that Respondents Dean Witter Reynolds, Inc. and Jack Zager sold his shares of Healthtrust, Inc. stock, without his authorization or approval, and that when he contacted Respondent Jack Zager, he told him since he was not directly told not to sell without authorization he used his own discretion. The Claimant further alleged that he requested his shares be returned to him, but the Respondent did not oblige him, therefore, he should be compensated for his loss.

Respondents Dean Witter Reynolds, Inc. and Jack Zager's through their in-house counsel, Melinda Socol Herbst, Esq., maintained that the Claimant had been advised of Respondent Jack Zager's strategy regarding this stock and he had agreed to it, and therefore, it was implemented. The Respondents further maintained that no misrepresentations or omission of material fact were made by Respondents concerning this investment, nor was there any intent to defraud. The Respondents contended that the Claimant failed to exercise due diligence and was negligent in the supervision of his financial affairs.

RELIEF REQUESTED

Claimant, Jeffrey L. Flowers requested \$2,320.05 in actual damages, plus interest and return of the NASD filing fee.

Respondents Dean Witter Reynolds, Inc. and Jack Zager requested the claims of the

Claimant be dismissed.

AWARD

Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, John R. Voigt, 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 May 20, 1992 and by the Respondent Jack Zager on September 14, 1992 and Respondent Dean Witter Reynolds, Inc. on July 29, 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. Respondents Dean Witter Reynolds, Inc. and Jack Zager are jointly and severally liable and shall pay to Claimant Jeffrey L. Flowers \$2,120.00 in actual damages.
2. The Claimant's request for interest is denied.
3. The parties shall bear their respective costs.
4. The \$50.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant shall be retained by the NASD. Respondents Dean Witter Reynolds, Inc. and Jack Zager are jointly and severally liable and shall pay \$50.00 to Claimant Jeffrey L. Flowers as reimbursement of the filing fee.

AFFIRMATION

I, JOHN R. VOIGT, 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: January 4, 1993