

PUBLIC

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

Manny Gold and Sylvia Gold

92-02228

Name of Respondents

Dean Witter Reynolds Inc.
John Jensen

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on July 7, 1992, Claimants Manny & Sylvia Gold, through their representative, Eric Berneger, alleged that Respondents Dean Witter Reynolds, Inc. and John Jensen recommended that they invest their life savings in the Dean Witter High Yield Fund, which began to drop in value upon their purchase of the fund, and that once they sold the fund they discovered that it was actually a junk bond, an unsuitable investment considering the Claimants' investment objectives. The Claimants further alleged that Respondent John Jensen made material misstatements and omissions in order to get them to make the investment, without regard to the question of suitability. The Claimants contended that they should be compensated for losses they incurred due to the Respondents' wrongdoing.

Respondents Dean Witter Reynolds, Inc. and John Jensen, in an answer filed by and through their in-house counsel, Janet T. Love, Esq., maintained that the Claimants never told Respondent John Jensen that this investment represented their life savings, and that their main priority was to receive a monthly income for their investment. The Respondents further maintained that this investment was suitable for the Claimants at the time the recommendation was made and that the Claimants received a prospectus which detailed the risks associated with increased income. The Respondents contended that the Claimants, with the benefit of hindsight, now say their investment was unsuitable.

RELIEF REQUESTED

Claimants Manny & Sylvia Gold requested \$8,900.51 in actual damages, plus interest.

Respondents Dean Witter Reynolds, Inc. and John Jensen requested that the claims of the Claimants be dismissed.

AWARD

Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Evelyn Ann Kramer, Esq., was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimants on June 25, 1992, by the Respondent John Jensen on July 27, 1992 and signed by Respondent Dean Witter Reynolds, Inc. on August 3, 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. The claims of the Claimants Manny & Sylvia Gold against Respondents Dean Witter Reynolds, Inc. and John Jensen are dismissed in their entirety.
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. Respondents Dean Witter Reynolds, Inc. and John Jensen are jointly and severally liable and shall pay to the Claimants \$75.00 as reimbursement of one-half of the filing fee.

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AFFIRMATION

I, EVELYN ANN KRAMER, 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: February 16, 1993