

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

Morton Morrison
Leona Morrison

No. 92-02325

Name of Respondents

Dean Witter Reynolds, Inc.
Mark Richmond

REPRESENTATION OF PARTIES

Claimants appeared *pro se*.

For Respondents: Linda Poole, Esq., and Curt Mueller, Esq., of Dean Witter, Reynolds, Inc.,
San Francisco, California.

CASE INFORMATION

Statement of Claim filed on or about: July 13, 1993.

Claimants' Submission Agreement signed on: July 7, 1993.

Joint Statement of Answer filed by Respondents on or about: September 28, 1993.

Respondent Dean Witter Reynolds, Inc.'s Submission Agreement signed on: March 16, 1993.

Respondent Mark Richmond's Submission Agreement signed on: March 22, 1993.

HEARING INFORMATION

Hearing date: June 30, 1993. One (1) session.

Hearing Location: Chicago, Illinois.

CASE SUMMARY

Claimants, Morton Morrison and Leona Morrison ("Claimants") stated that due to their trust in the Dean Witter Reynolds organization, they allegedly placed 50 percent of their assets in the Dean Witter High Yield mutual fund. Claimants alleged unsuitability and negligence by Respondents Dean Witter Reynolds, Inc. and Mark Richmond ("Respondents"). Claimants asserted that when the Dean Witter High Yield Fund began to falter, there had been no aggressive action taken by Respondents to protect their investment.

In their joint Answer, Respondents denied each and every allegation contained in the Statement of Claim. In addition, Respondents asserted the following affirmative defenses:

1. Claimants' claims relating to their purchase of Dean Witter High Yield Fund shares (the "Shares") is ineligible for NASD arbitration under Section 15 of the NASD Code of Arbitration Procedure (the "Code").
2. Claimants, at all material times, were informed of potential risks associated with their investment in the Shares and therefore assumed any such risk associated with their investments.
3. Claimants' injury, if any, was caused by their own conduct, act, or omission and/or the acts, conduct or omissions of persons other than Respondents over whom Respondents have no control.
4. Claimants' claims are barred by the doctrine of waiver.
5. Claimants' claims are barred by the doctrine of ratification.
6. Claimants' claims are barred by the doctrine of estoppel.
7. Claimants' claims are barred by the doctrine of laches and/or the applicable statute of limitations.
8. Respondents reserve the right to amend this answer as discovery continues.

RELIEF REQUESTED

Claimants requested damages in the amount of \$28,536.78.

Respondents requested that Claimants' Statement of Claim be dismissed in its entirety.

OTHER ISSUES CONSIDERED & DECIDED

On September 28, 1992, Respondents filed a Motion to Dismiss pursuant to Section 15 of the Code. Claimants filed their Response on October 28, 1992, and Respondents Replied to Claimants October 28, 1992 Response on November 16, 1992. After review of the documents submitted by the parties, and deliberation, the Director of Arbitration granted the Respondents Motion to Dismiss as to any transactions/allegations of wrongdoing that had occurred prior to July 7, 1986. Therefore the purchases dated May 13, 1985 and May 16, 1986 of the Dean Witter High Yield Fund referred to in the Statement of Claim were not held to be eligible for NASD Arbitration. The ineligibility did not extend to allegations of wrongdoing that occurred on and after July 7, 1986. After review of the documents submitted to the Director, and the Director's ruling, the undersigned panel came to the same determination as to the meaning of the Director's February 23, 1993, ruling.

The parties have agreed that the Award in this matter may be executed by 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 original(s) 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. Respondents, Dean Witter Reynolds, Inc. and Mark Richmond are jointly and severally liable for, and shall pay to the Claimants, Morton and Leona Morrison the sum of \$2,500.00 as satisfaction of all of their claims herein.

OTHER COSTS

Each party shall bear its own costs of this arbitration, including attorneys' fees.

FORUM FEES

Pursuant to Section 43(c) of the Code, the following forum fees are assessed:

1 hearing sessions X \$400.00 = \$400.00

Pursuant to Section 43(c) of the Code, the NASD shall retain the nonrefundable filing fee in the amount of \$100.00, and shall retain the hearing session deposit in the amount of \$400.00 previously paid to the NASD by the Claimant.

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

CONCURRING ARBITRATORS

Dated:

June 30, 1993

/s/Gordon B. Schneider
Gordon B. Schneider
Presiding Chair
Public Arbitrator

June 30, 1993

/s/Ann J. Crane
Ann J. Crane
Public Arbitrator

June 30, 1993

/s/R. C. Romano
Richard C. Romano
Industry Arbitrator

Date of Service by the NASD: _____