

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Helen M. Young

vs.

92-02517

Name of Respondents

NWNL Management Corporation
Charles E. Warner

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on July 31, 1992, Claimant Helen M. Young, who appeared Pro Se, alleged that Respondents NWNL Management Corporation and Charles E. Warner misled her into replacing her Variable Account with Western Reserve Life Assurance Co. of Ohio, and she was not told she could choose not to switch. The Claimant further alleged that the Respondents failed to advise her of additional costs to her account and the large commission charge.

Respondent NWNL Management Corporation, through it's in-house counsel, Susan S. Kelly, Esq., maintained that no misrepresentations were made to the Claimant, and that she authorized and ratified all transactions on her account. The Respondent further maintained that it denies that as a result of the investment she suffered a loss, and denies that she suffered a loss as a result of commission charges.

Respondent Charles E. Warner, through his counsel, Patricia R. Young, Esq. of Nashville, TN, maintained that the Claimant's loss resulted from her decision to surrender the NWNL Policy, not from the transition to this policy, and that she was provided with a prospectus and other pertinent information concerning the new NWNL Policy. The Respondent contended that the Claimant caused at least fifty percent of her loss, so any award should be proportionally reduced.

RELIEF REQUESTED

Claimant Helen R. Young requested \$3,898.20 in actual damages.

Respondent NWNL Management Corporation requested the claims of the Claimant be dismissed, and requested it be awarded costs and attorney's fees.

Respondent Charles E. Warner 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, David N. Burn, was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on July 28, 1992, by the Respondent NWNL Management Corporation on September 18, 1992 and by Respondent Charles E. Warner on October 2, 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 NWNL Management Corporation and Charles E. Warner are jointly and severally liable and shall pay to Claimant Helen M. Young \$3,898.20 in actual damages.
2. The parties shall bear their respective costs and attorney's fees.
3. The \$125.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant shall be retained by the NASD, Inc. Respondents NWNL Management Corporation and Charles E. Warner are jointly and severally liable and shall pay \$125.00 to the Claimant as reimbursement of the filing fee.

Page Three
Award 92-02517

AFFIRMATION

I, **DAVID N. BURN**, 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