

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

James A. and Nancy L. Sweany

92-02762

Name of Respondents

Dean Witter Reynolds Inc.
Samuel S. Pollack
Donald Schwartz

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on August 18, 1992. Claimants James A. & Nancy L. Sweany, who appeared Pro Se, alleged that Respondent Dean Witter Reynolds, Inc., through Respondent Samuel S. Pollack, its registered representative, failed to provide them with a prospectus prior to their purchase of Aircraft Income Partner LP. The Claimants also alleged that the high risk of this investment was not disclosed to them, and that being conservative investors, had they been made aware of the high risks, they would not have invested in this security. The Claimants contended that due to the Respondents' violation of securities laws, they should be held liable.

Respondents Dean Witter Reynolds, Inc., Samuel S. Pollack and Donald Schwartz, through their in-house counsel, William B. Peterson, Esq., maintained that the Claimants were informed of the risks of this investment and were given a complete and accurate presentation of this investment. The Respondents further maintained that this investment was suitable considering the Claimants' networth and gross annual income. The Respondents contended that a prospectus was sent to the Claimants as well as quarterly and annual reports and that they expressed no concern until 1990, three years after the initial purchase.

RELIEF REQUESTED

Claimants James A. & Nancy L. Sweany requested \$10,000.00 in actual damages, plus interest and costs.

Respondents Dean Witter Reynolds, Inc., Samuel S. Pollack and Donald Schwartz 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, Stephen LeClair, 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 August 15, 1992, by Respondent Dean Witter Reynolds, Inc. on October 30, 1992, by Respondent Donald Schwartz on September 29, 1992, but not signed by Respondent Samuel S. Pollack as required by Sections 12 & 13 of the NASD Code of Arbitration Procedure.

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 James A. & Nancy L. Sweany against Respondents Dean Witter Reynolds, Inc., Samuel S. Pollack and Donald Schwartz 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.

AFFIRMATION

I, **STEPHEN LeCLAIR, 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: March 8, 1993