

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

Thomas H. Kaye and Shirley R. Kaye

92-02942

Name of Respondent

Dean Witter Reynolds Inc.

REPRESENTATION

For Claimants, Thomas H. Kaye and Shirley R. Kaye: Thomas H. Kaye.

For Respondent, Dean Witter Reynolds, Inc.: Ellen Fong of Dean Witter Reynolds, Inc.

CASE INFORMATION

Statement of Claim filed: August 13, 1992.

Claimant's Submission Agreement signed on: August 28, 1992.

Statement of Answer filed by Respondent, Dean Witter Reynolds, Inc. on: October 14, 1992.

Respondent's Submission Agreement signed on: October 12, 1992.

HEARING INFORMATION

Hearing Date/Sessions: July 22, 1992 - One session.

Hearing Location: American Arbitration Association - Southfield, Michigan.

CASE SUMMARY

Claimants alleged that Respondent made misrepresentations concerning the Dean Witter Principal Guaranteed Fund III L.P. ("PGF III"), in which the Claimants invested \$30,000.00. Claimants maintained that they were presented with material by Respondent which led them to believe that PGF III would meet their investment objectives, but they were disappointed with the fund's performance and they were later informed that trading was to be terminated. Claimants alleged that the reasons given for terminating trading contradicted some of what was presented concerning PGF III. Claimants further alleged that they believed that the fund was poorly managed and was not structured well enough to guarantee the principal investment with a fair expectation of return on the investment.

Respondent denied that it or any of its representatives misrepresented PGF III to the Claimants. Respondent maintained that the Claimants were knowledgeable about investments and were fully informed about PGF III before and after they invested. Respondent further maintained that Claimants' are barred from recovery by the doctrines of ratification, waiver estoppel and laches.

RELIEF REQUESTED

Claimants requested \$4,768.50 in damages, representing the loss on their initial investment plus \$5,100.00 representing the loss of interest on their investment of \$30,000.00 from June 18, 1989 to May 21, 1992.

Respondent requested dismissal of all claims against it and an award of costs.

AWARD

After considering the pleadings, the testimony and the evidence presented at the hearing the undersigned arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

It appears from the record that PGF III complied with the representations and warranties presented in the prospectus. That the prospectus and sales brochure made clear and understandable full disclosure that this investment had significant risk associated with its intent of high returns. The PGF III Fund feature of a guaranty of the original investment, after the stated period, would have been fulfilled if Claimants left their investment mature pursuant to the terms of the prospectus.

As to whether Claimants were suitable for this investment. Respondent provided credible testimony that this investment was a minor portion of Claimant's investment portfolio, complied with the State of Michigan requirements for portfolio diversification and presented credible evidence that the PGF III Fund, with its principal guaranty, was a reasonable and suitable investment for Claimants at the time it was purchased.

- 1) Accordingly, Claimant's Claim is hereby dismissed in its entirety.

FORUM FEES

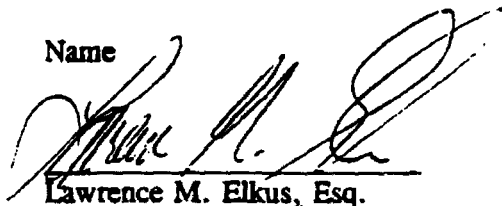
Pursuant to Section 43c of the Code of Arbitration Procedure, the following Forum Fees are assessed:

\$75.00	Non-refundable filing fee
\$200.00	Hearing Session Fees (\$200.00 x 1 Session)

- 1) Total forum fees in the amount of \$275.00 are hereby assessed against the Claimants. Claimants are entitled to offset this amount with the \$275.00 previously deposited with the NASD. Accordingly, no balance is due.

Arbitrator's Signature

Name



Lawrence M. Elkus, Esq.
Public Arbitrator

Date of Decision: August 12, 1993