

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Lynn Wood

92-03940

Name of Respondents

Dean Witter Reynolds, Inc.
Watson W. Dyer

REPRESENTATION

For Claimant, Lynn Wood "Wood"): Robert W. Anthony, Esq. of Warlick, Fassett, Divine & Anthony, Orlando, Florida.

For Respondents, Dean Witter Reynolds, Inc. ("DWR") and Watson W. Dyer ("Dyer"): Elizabeth Hill, Esq. of Dean Witter Reynolds, Inc., New York, New York.

CASE INFORMATION

Statement of Claim filed: 11/20/92.

Claimant's Submission Agreement signed on: 11/13/92.

A joint Statement of Answer of DWR and Dyer filed: 12/13/93.

Respondent, DWR's Submission Agreement and Corporate Acknowledgment signed on: 12/7/93 by William B. Peterson on behalf of DWR.

Respondent, Dyer's Submission Agreement signed: 1/25/93.

HEARING INFORMATION

On January 7, 1994 a pre hearing telephone conference lasting one session was conducted with the full Panel.

Hearing Dates/Sessions: 2/22/94-Two (2) sessions.

2/23/94-Two (2) sessions.
4/26/94-Two (2) sessions.
4/27/94-One (1) session.

Hearing Location: Tampa, Florida.

CASE SUMMARY

Claimant alleged that transactions entered into by her in July, 1986, were unsuitable investments and that there was a lack of full disclosure related to the risks of the investments, that there was a failure to deliver a prospectus prior to the entry of the orders and that excessive commissions were charged to her account. Claimant alleged that she liquidated securities holdings valued at approximately \$131,000 and invested all of the funds in the Dean Witter High Yield Bond Fund. Claimant further alleged that Respondents violated industry standards in connection with the transactions and alleged theories of liability of negligence, gross negligence, breach of fiduciary duty, common law fraud, negligent supervision and violations of the Federal and Florida securities laws.

Respondents denied all allegations of wrongdoing contained in the Statement of Claim and maintained that Claimant and Claimant alone selected the High Yield Securities Fund based upon all the available alternatives presented by Respondents and that prior to executing Claimant's investment selection, Dyer thoroughly discussed the nature of the High Yield Securities Fund with her. Respondents further stated that Claimant was provided with a prospectus for the fund which fully describes the investment and that after Claimant's investment DWR supplied her with all information regarding the yield and value of the High Yield securities fund in monthly statements from both DWR and from Dean Witter Intercapital. Respondents contended that Claimant's losses in the High Yield Securities Fund are the direct result, not of Respondents' errors, but of the dramatic decline in the demand for lower rated bonds caused by the adverse publicity surrounding the indictment of Michael Milken, the bankruptcy of Drexel Burnham Lambert, and the U.S. government's decision to restrict investments in low rated bonds by banks and pension funds.

RELIEF REQUESTED

Claimant requested actual damages of \$54,694.10 plus commission overcharges of \$711.00 plus damages for additional adverse tax consequences. Claimant also sought interest from October 11, 1989 when the Claimant liquidated the holdings in the Dean Witter High Yield Fund up through the date of the arbitration award. Claimant also requested an award of punitive damages and attorneys' fees.

Respondents requested dismissal of the Claim in its entirety.

OTHER ISSUES CONSIDERED & DECIDED

The parties have agreed that the Award in this matter may be executed in 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 originals remain on file with the NASD.

AWARD

After considering the pleadings, the testimony and the evidence presented at the hearing and post hearing submissions (if any), the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. Respondents, DWR and Dyer, are found liable, jointly and severally and shall pay to the Claimant, damages in the amount of \$58,235.44, including interest to the date of this Award.
2. Respondents, DWR and Dyer, are found liable, jointly and severally, and shall pay to the Claimant the further amount of \$36,108.32 for attorney's fees including costs and expert witness fees, Claimant having submitted proof to support such award pursuant to Section 517 Florida Statutes and other laws of the state of Florida.
3. Claimant's request for punitive damages is hereby denied.
4. All other claims are hereby denied.

OTHER COSTS

The parties shall each bear all other costs and expenses incurred by them in connection with this proceeding.

FORUM FEES

Pursuant to Section 43c of the Code of Arbitration Procedure, the panel has assessed forum fees in the amount of \$3,800 (seven (7) hearing sessions X \$500 + one pre hearing telephone conference X \$300).

1. Respondents, DWR and Dyer, are hereby assessed forum fees, jointly and severally, in the amount of \$3,800, \$370 of which shall be paid directly to Claimant leaving a balance due to the NASD by Respondents in the amount of \$3,430.

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2. The NASD shall retain the \$150 non-refundable filing fee previously deposited by the Claimant.

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

ARBITRATION PANEL

Concurring Arbitrators' Signatures

Name	Public/Industry
<u>/s/</u>	
<u>Jerry M. Hamovit, Esq.</u>	Public/Chairman
<u>/s/</u>	
<u>Michael N. Gonatos</u>	Public/Panelist
<u>/s/</u>	
<u>Daniel M. Schwartz</u>	Industry/Panelist

Date of Decision: June 8, 1994