

PUBLIC

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

Edward D. & Marian S. Hengerer

92-04132

Name of Respondents

Dean Witter Reynolds Inc.
Stella Lewis

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on December 8, 1992, Claimants Edward D. & Marian S. Hengerer, who appeared Pro Se, alleged that Respondent Stella Lewis, while employed by Respondent firm Dean Witter Reynolds, Inc., made an unsuitable recommendation to invest their retirement savings in Dean Witter Hi-Yield Bond Fund, and that although they questioned the security of this investment, she assured them it was in accordance with their investment objectives, but it was not. The Claimants contended that the Respondents should be held liable for losses they have incurred.

Respondents Dean Witter Reynolds, Inc. and Stella Lewis, through their in-house counsel, William B. Peterson, Esq., maintained that the Claimants received a prospectus with each purchase of shares of the fund and could have instructed to sell at any time, which they did not. The Respondent further maintained that the Claimants have not suffered a loss in this matter, and they should not be held liable.

RELIEF REQUESTED

Claimants Edward D. & Marian S. Hengerer requested \$5,507.36 in actual damages.

Respondents Dean Witter Reynolds, Inc. and Stella Lewis 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, Henry Sanchez, Jr., 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 November 27, 1992, by the Respondent Dean Witter Reynolds, Inc. on January 21, 1993 but not signed by Respondent Stella Lewis 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 Edward D. & Marian S. Hengerer against Respondent Dean Witter Reynolds, Inc. are dismissed in their entirety.
2. Respondent Stella Lewis is liable and shall pay to Claimants Edward D. & Marian S. Hengerer \$2,281.37 in actual damages.
3. The parties shall bear their respective costs.
4. 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. Respondent Stella Lewis is liable and shall pay \$75.00 to the Claimants as reimbursement of one-half of the filing fee.

AFFIRMATION

I, **HENRY SANCHEZ, JR., 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: June 2, 1993