

N.A.S.D. AWARD**NATIONAL ASSOCIATION OF SECURITIES DEALERS**

In the Matter of the Arbitration Between

Name of Claimants

Glen D. Waldick & Marilia Drusch
Marilia Drusch, Beneficiary/IRA

93-00118

Name of Respondent

Dean Witter Reynolds, Inc.

REPRESENTATION

For Claimants, Glen D. Waldick ("Waldick") and Marilia Drusch ("Drusch");
Allan J. Fedor, Esq. and Franell Fedor, Esq. of Fedor & Fedor, Largo, Florida.

For Respondent, Dean Witter Reynolds, Inc. ("DWR"): Peter J. Aldrich, Esq.,
of Kelley, Aldrich & Warren, West Palm Beach, Florida.

CASE INFORMATION

Statement of Claim filed: 1/7/93.

Claimant's Submission Agreement signed on: 12/30/92.

Statement of Answer filed by Respondent on: 4/13/93.

Respondent's Submission Agreement signed on: 4/30/93 by George D. Sullivan
on behalf of the firm.

HEARING INFORMATION

Hearing Dates/Sessions: 7/20/94-two (2) sessions.
7/21/94-two (2) sessions.

Hearing Location: Tampa, Florida.

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CASE SUMMARY

Claimants alleged: that this claim arose out of the sale of five limited partnerships totaling \$52,000.00 and over \$14,000.00 in a computer stock trade on the Vancouver Exchange sold to Claimants by and through DWR and its agent, J. Thomas Hartung; that Respondent misrepresented the risks associated with the limited partnerships; failed to disclose material information about the limited partnerships; failed to give Claimants prospectuses; wilfully and repeatedly concealed the true value of the limited partnerships; and deceived Claimants into believing that the investments were safe by repeatedly showing the partnerships' values at their original value on monthly account statements created by Respondent. Claimants also alleged: that the investments were unsuitable for their investment needs; that Respondent's conduct violated Florida securities laws under F.S. Section 517.301;2; constituted common law misrepresentation, fraud and deceit, negligence and/or gross negligence; constituted a breach of its fiduciary duty to Claimants; violated Florida's civil Remedies for Criminal Practices Act under F.S. Sections 772.102-772.104. In addition, Claimants alleged that Respondent failed to properly supervise the activities of its agent, and that Respondent was responsible for the conduct of its agent under the common law theory of respondeat superior.

Respondent denied all allegations of wrongdoing contained in the Statement of Claim and maintained: that Claimants are experienced investors and that Mr. Hartung fully explained each investment to them; that each investment met Claimants' investment objectives at the time and were suitable; that none of the purchases in question were made on a discretionary basis; and that every purchase was authorized in advance. Respondent asserted the affirmative defenses that the purchases were made outside the statute of limitations and that the claims were ineligible for arbitration pursuant to Section 15 of the Code of Arbitration Procedure.

RELIEF REQUESTED

Claimants requested combined compensatory damages in excess of \$108,000.00 including interest, plus costs, expenses and reasonable attorneys' fees. Claimants also requested punitive damages and statutory treble damages pursuant to Florida Statute Section 772.104.

Respondent requested dismissal of all claims and that it be awarded attorneys' fees pursuant to Section 517.211(6).

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OTHER ISSUES CONSIDERED & DECIDED

1. 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.
2. The ruling on the Section 15 Motion of July 27, 1993 by the Director of Arbitration was reasserted by counsel and considered by the panel.

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. Respondent, DWR, is found not liable and, therefore, all claims against it are hereby dismissed.
2. Respondent's request for attorneys' fees is hereby denied.

OTHER COSTS

The parties shall bear their own costs and expenses incurred in connection with this proceeding including attorneys' fees.

FORUM FEES

Pursuant to Section 43c of the Code of Arbitration Procedure, the panel has assessed forum fees in the amount of \$3,000.00 (four (4) hearing sessions X \$750.00).

1. Claimants are hereby assessed forum fees, jointly and severally, in the amount of \$1,500.00 for which the NASD shall retain the \$750.00 previously deposited leaving a balance due to the NASD of \$750.00.

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2. Respondent, DWR, is hereby assessed forum fees in the amount of \$1,500.00 payable to the NASD, Inc.

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

ARBITRATION PANEL

Concurring Arbitrators' Signatures

Name

Public/Industry

/s/

Richard C. McFarlain, Esq.

Public/Chairman

/s/

James E. Garside

Public/Panelist

/s/

George K. Beardsley

Industry/Panelist

Date of Decision: August 31, 1994