

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Robert Stalbaum

93-00398

Name of Respondents

Dean Witter Reynolds Inc.
Joseph Rovner

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on February 3, 1993, Claimant Robert Stalbaum who appeared Pro Se, alleged that he had an IRA account with Respondent Dean Witter Reynolds, Inc. through Respondent Joseph Rovner and on April 2, 1991, he purchased 1500 shares of Hadson Corporation common stock at \$2.75 a share based on a recommendation made by Respondent Joseph Rovner. Claimant further alleged that he bought the stock because he believed that the recommendation made by Respondent Joseph Rovner to buy was coming from Respondent Dean Witter Reynolds, Inc. and because of specific and definite representations that Respondent Joseph Rovner made that the stock "had little or no downside risk.... and that the market could drop 200 - 300 points and this stock still will not fall". Claimant contended that within a few months the stock dropped over 45% and when Claimant expressed substantial concern to Respondent Joseph Rovner, his recommendation was to "buy more". Claimant further contended that Hadson Corporation is now bankrupt and selling for \$.25 a share. Claimant asserted that Respondents breached their fiduciary duty by taking advantage of their position of trust and they failed to disclose the risks involved in this investment and failed to disclose that the recommendation was a personal recommendation from the broker, not Respondent Dean Witter Reynolds, Inc. Claimant further asserted that Respondent Dean Witter Reynolds, Inc. failed to exercise proper control over its broker, Respondent Joseph Rovner, and that the lack of control caused substantial financial damage to Claimant. Claimant further alleged that Respondents breached express and implied terms of its customer agreement which obligated them to comply with the rules and regulations of the Exchanges, Federal and State Securities laws. Claimant further contended that because of Respondents actions, he lost \$4,359.03 plus interest in his account.

Respondents Dean Witter Reynolds, Inc. and Joseph Rovner by a through their in-house counsel William B. Peterson, maintained that in June, 1986 Claimant Robert Stalbaum opened an IRA with an investment objective of income, and told Respondent Joseph Rovner that he was interested in "quick profits" whereby he was not an investor interested in the "long term". Respondent further maintained that Respondent Joseph Rovner had researched Hadson Corporation and found the stock to be in line with Claimant's investment objectives. Respondents contended that Claimant was sent the Standard and Poor's information sheet for his review at which time, Claimant authorized the purchase of 1500 shares and the order was placed. Respondents further contended that Respondent Joseph Rovner stated that recommendation to purchase Hadson Corporation was represented, nothing other than his recommendation, thus all claims should be dismissed.

RELIEF REQUESTED

Claimant Robert Stalbaum requested \$4,359.03 in actual damages plus interest and expenses.

Respondents Dean Witter Reynolds, Inc. and Joseph Rovner requested the claim be dismissed.

AWARD

Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Erica Colette Bushner, was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on January 27, 1993, and by the Respondents on March 19, 1993.

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 claim of Claimant Robert Stalbaum against Respondents Dean Witter Reynolds, Inc. and Joseph Rovner is dismissed.
2. The parties shall bear their respective costs.
3. The \$125.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant Robert Stalbaum shall be retained by the NASD, Inc. Respondents Dean Witter Reynolds, Inc. and Joseph Rovner are jointly and severally liable and shall pay to the Claimant the sum of \$125.00, as reimbursement.

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AFFIRMATION

I, **ERICA COLETTE BUSHNER**, 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.


Erica Colette Bushner

DATE OF DECISION: September 8, 1993