

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Dean Witter Reynolds, Inc.

93-00937

Name of Respondent

Panfilo Guglielmi

**REPRESENTATION**

For Claimant: Dean Witter Reynolds, Inc. ("Dean Witter") was represented by Reggie C. Giffen, Esq. of Morrison & Hecker, located in Kansas City, Missouri.

For Respondent: Panfilo Guglielmi ("Guglielmi") did not appear.

**CASE INFORMATION**

Statement of Claim filed: March 11, 1993.

Claimant's Submission Agreement signed on: March 8, 1993.

Respondent Guglielmi did not file an executed submission agreement or Statement of Answer.

**HEARING INFORMATION**

Pre-Hearing Conference: None Held.

Hearing Date/Sessions: January 12, 1993 for One (1) session.

Hearing Location: St. Louis, Missouri.

### **CASE SUMMARY**

Claimant Dean Witter alleged that Respondent Guglielmi had failed to pay the debit balance in his account for stock purchases made at his request. Dean Witter specifically alleged that:

1. On August 13, 1990, Guglielmi, who was a customer of Dean Witter's Hartford, Connecticut branch, opened an account with Dean Witter's St. Charles, Missouri branch;
2. On August 13 and 15, 1990, Guglielmi purchased 4,000 and 4,250 shares of Advanced Realty at 4 1/4, but failed to pay for the transactions, creating a debit balance in the sum of \$36,307.41; and
3. On March 25, 1991 and January 20, 1992, Dean Witter made written demands for payment, but Guglielmi refused to honor these demands.

Respondent Guglielmi did not answer.

### **RELIEF REQUESTED**

Claimant Dean Witter requested entry of an award against Guglielmi in the principal amount of \$36,307.41; interest at the legal rate from August 13, 1990; all reasonable attorneys' fees; and any and all relief which the panel deemed just and proper.

### **OTHER ISSUES CONSIDERED & DECIDED**

Respondent Guglielmi did not file an executed submission agreement or Statement of Answer. Pursuant to Section 12 of the N.A.S.D. Code of Arbitration Procedure, the Panel determined that Paragraph 16 of the Customer Agreement signed by Respondent Guglielmi on November 9, 1987 required submission of this matter to arbitration. In addition, the Panel determined that Respondent Guglielmi was properly served with the Statement of Claim and Notice of the Hearing pursuant to Section 25 and 26 of the N.A.S.D. Code of Arbitration Procedure.

Respondent Guglielmi did not appear at hearing. Pursuant to Section 29 of the NASD Code of Arbitration Procedure, the Panel determined that because Respondent Guglielmi had received due notice of the hearing, but failed to appear, that they would proceed with the arbitration of the controversy.

### **AWARD**

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

1. Respondent Panfilo Guglielmi is liable for and shall pay to the Claimant, Dean Witter Reynolds, Inc., the sum of \$36,307.41, plus interest from August 22, 1990 until January 12, 1994 in the amount of \$11,109.00;
2. In addition, Respondent Panfilo Guglielmi is liable for and shall pay to the Claimant, Dean Witter Reynolds, Inc., the sum of \$2,079.00 as attorneys' fees. In determining to award attorneys' fees, the Panel considered Paragraph 6 of the Dean Witter Reynolds, Inc. Customer Agreement signed by Respondent Guglielmi on November 9, 1987, as well as Missouri law, and determined that authority existed for an award of attorneys' fees to Claimant Dean Witter Reynolds, Inc.;
3. Furthermore, Respondent Panfilo Guglielmi is liable for and shall pay to Claimant Dean Witter Reynolds, Inc. the sum of \$1,100.00, representing reimbursement of the \$500.00 non-refundable claim filing fee and the \$600.00 hearing session deposit previously deposited by the Claimant, Dean Witter Reynolds, Inc.;
4. The parties shall bear their own costs of arbitration, except for those specifically enumerated herein;
5. Any relief not specifically granted is hereby denied.

### **FORUM FEES**

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the following Forum Fees are assessed: One (1) Hearing Session x \$600.00 per session = \$600.00.

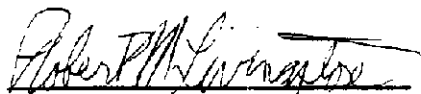
The National Association of Securities Dealers, Inc. shall retain the \$500.00 non-refundable claim filing fee and the \$600.00 hearing session deposit previously deposited by the Claimant, Dean Witter Reynolds, Inc.

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

Concurring Arbitrators' Signatures

Name

Date

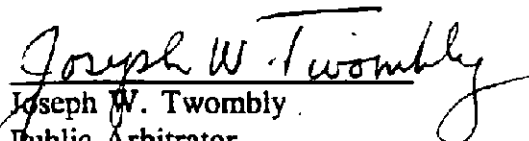


Robert M. Livingstone, Esq.

Public Arbitrator

Chairperson

2-12-94



Joseph W. Twombly

Public Arbitrator

2-14-94



Charlotte S. Cohen

Industry Arbitrator

2-15-94

For NASD Use Only

Date of Service of Award: 2-23-94