

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the matter of the Arbitration Between

Name of Claimant

Myrna Stirm

NASD Arbitration
No. 93-2303

Name of Respondents

Dean Witter Reynolds, Inc.
Gregory Joseph Stawicki

REPRESENTATION

For Claimant: In Pro Se

For Respondent: Dean Witter Reynolds, Inc. - Janet T. Epstein, Esq.

For Respondent: Gregory J. Stawicki - Daniel P. Costa - Diepenbrock & Costa -
Sacramento, California

CASE INFORMATION

Statement of Claim filed: June 10, 1993

Claimant's Submission Agreement signed: June 4, 1993

Statement of Answer filed by Respondent: Dean Witter Reynolds, Inc. - August 19, 1993

Statement of Answer filed by Respondent: Gregory Joseph Stawicki - August 6, 1993

Respondent Dean Witter Reynolds, Inc.'s Submission Agreement signed: August 18, 1993

Respondent Gregory J. Stawicki's Submission Agreement signed: August 6, 1993

HEARING INFORMATION

Pre-Hearing Conference Date / Session: None

Hearing Date / Sessions: January 11, 1994 - Two Session

Hearing Location: San Francisco, California

CASE SUMMARY

Claimant, Myra Stirm, alleged that Respondent, Gregory J. Stawicki, while employed by Dean Witter Reynolds, Inc. used undue influence over Claimant's elderly aunt in order to take advantage of a Trust which her aunt had established.

Respondent, Stawicki, denied any use of undue influence and alleged that the decedent was fully capable of making financial decisions and that he did not participate in any decisions as to naming the beneficiaries or the disposition of the Trust.

RELIEF REQUESTED

Claimant seeks to recover the sum of \$76,111.76.

Respondents seek dismissal of the claim in its entirety.

OTHER ISSUES CONSIDERED AND DECIDED

Respondent, Dean Witter Reynolds, Inc., requested the panel to dismiss the claim against Dean Witter Reynolds, Inc., on the basis that none of the alleged acts occurred during the period that Respondent, Stawicki, was employed by Dean Witter Reynolds, Inc. The panel deferred ruling in order to hear evidence on the issues presented. Dean Witter Reynolds, Inc.'s motion to dismiss was granted.

The parties have agreed that the Award in this matter may be executed in either 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 original remains on file with the NASD.

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. Claimant, Myrna Stirm, did not meet the required burden of proving her claim and therefore claim against Respondents, Gregory Joseph Stawicki and Dean Witter Reynolds, Inc., is denied..
2. The NASD shall retain all fees and deposits.

FORUM FEES

Pursuant to Section 43(c) of the NASD Code of Arbitration Procedure, the following Forum Fees are assessed:

Total Fees:		
Two sessions @ \$500 / session	=	\$1,000.00
Claimant's Share		
One session @ \$500 / session	=	\$500.00
<u>Hearing session deposit, previously paid</u>	=	<u>\$500.00</u>
Balance due	=	<u>\$0.00</u>
Respondent's Share		
One session @ \$500 / session	=	<u>\$500.00</u>

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

ARBITRATORS

<u>Name</u>	<u>Public / Industry</u>
Joanna Leighton	Public Chairperson
Robert Fisher	Industry Panelist
Walter Tick	Public Panelist

Concurring Arbitrators' Signatures

Joanna Leighton

Date of Decision: _____

Date Served: 03/22/94