

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Name of Claimant

Robert F. Kuechenberg

93-02726

Name of Respondent

Dean Witter Reynolds, Inc.

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**CASE SUMMARY**

In a claim filed with the National Association of Securities Dealers, Inc. on July 13, 1993, Claimant Robert F. Kuechenberg, who appeared Pro Se, alleged that Respondent Dean Witter Reynolds, Inc. failed to follow proper procedure and practices when it recommended that he invest in Dean Witter Realty Yield Plus II L.P., which did not meet his 5 year investment objectives of liquidity, the ability to double in value in that 5 year period, and that the investments were tradeable. The Claimant further alleged that although 3 of his investments were in accordance with the mutually agreed upon investment strategy, this L.P. did not meet any of his objectives, as he discovered after the purchase was made. Claimant Kuechenberg contended that the Respondent should be held liable for the loss incurred due to this investment which it recommended to him.

Respondent Dean Witter Reynolds, Inc., through its in-house counsel Vincent J. LaGreca, maintained that the 4 investments, made by the Claimant, collectively constituted a well diversified portfolio which contained some investments geared toward income, others toward capital appreciation and others towards an inflation hedge. The Respondent further maintained that the L.P. in question has paid over 25% in income since the purchase, and that this income could be used to supplement the Claimant's income without liquidating the investment. Respondent Dean Witter Reynolds, Inc. contended that it committed no wrong and should not be held liable in this matter.

**RELIEF REQUESTED**

Claimant Robert F. Kuechenberg requested \$5,000.00 in actual damages.

Respondent Dean Witter Reynolds, Inc. requested that the claims of the Claimant be dismissed.

**AWARD**

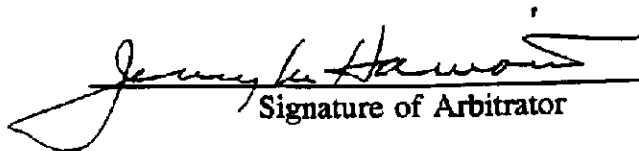
Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Jerry M. Hamovit, was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on July 2, 1993 and by the Respondent on September 7, 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 claims of the Claimant Robert F. Kuechenberg against Respondent Dean Witter Reynolds, Inc. are dismissed in their entirety.
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 shall be retained by the NASD, Inc. Respondent Dean Witter Reynolds, Inc. is liable and shall reimburse the Claimant for the \$125.00 filing fee.

**AFFIRMATION**

I, **JERRY M. HAMOVIT**, 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:      March 1, 1994