

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

---

In the Matter of the Arbitration Between

Name of Claimants

Robert G. Chappell

93-03660

Name of Respondents

Dean Witter Reynolds, Inc.

---

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on August 9, 1993, Claimant Robert G. Chappell, who appeared Pro Se, alleged that he let his broker at Respondent Dean Witter Reynolds, Inc. know that he knew nothing about the stock market. Claimant further alleged that he purchased 2995 shares of American Capitol Government Securities Fund ("ACGSF") from Respondent. Claimant contended that he told his broker at Respondent that his first concern was safety in savings with "dividends running a distant second". Claimant further contended that his broker at Respondent sold his interest in ACGSF and purchased 4296 shares of American Capitol Corporate Bond Fund ("ACCBF") without telling him that he was incurring a loss. Claimant alleged that he was advised to sell his interest in ACCBF, and did so at a loss. Claimant further alleged that his broker at Respondent handled his affairs in an unprofessional and misleading manner. Claimant contended that losses in his account were related directly to his broker's predatory activities at Respondent. Claimant further contended that his broker at Respondent failed to cooperate in an open and truthful manner, as he recommended bond funds to Claimant that were not safe investments. In his additional documentary submission, Claimant alleged that his broker at Respondent sold his investments without his permission. Claimant further alleged that his broker at Respondent originally introduced himself to Claimant as a friend of a friend of his so he could "get his foot in the door" in order to make a sales pitch. As a result of the above, Claimant alleged that he suffered damages for which the Respondent should be held liable.

Respondent Dean Witter Reynolds, Inc., through its in-house counsel Melinda Socol Herbst, Esq., New York, New York, maintained that Claimant's investment objective was income and his account was diversified into several government mutual funds. Respondent further maintained that ACGSF was considered a suitable investment for the conservative investor and clearly met Claimant's primary investment objective of income. Respondent contended that its broker informed Claimant that the share price would fluctuate and provided a prospectus. Respondent further contended that all transactions made in Claimant's account were with Claimant's knowledge and consent. Respondent maintained that claimant knew and was aware of the risks associated with his investments and voluntarily chose to assume those risks. As a result of the above, Respondent contended that it should not be held liable in this matter.

#### **RELIEF REQUESTED**

Claimant Robert G. Chappell requested \$5,000.00 in actual damages.

Respondent Dean Witter Reynolds, Inc. requested that the Claimant's Statement of Claim be dismissed in its entirety, and that costs and attorney's fees be assessed against Claimant.

#### **AWARD**

Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single public arbitrator, John G. Deckard, Esq., was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on August 5, 1993 and by the Respondent on November 16, 1993.

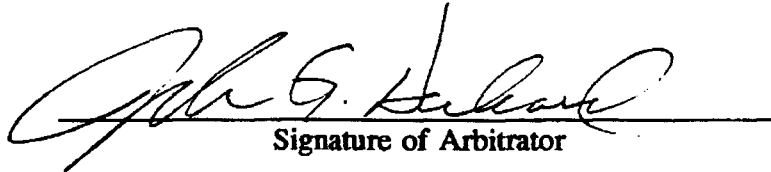
And, the Arbitrator, having considered the proof of the Parties, has decided and determined in full and final resolution of the issues submitted for determination as follows:

1. The claims of Claimant Robert G. Chappell against Respondent Dean Witter Reynolds, Inc. are dismissed in their entirety.
2. The parties shall bear their respective costs, including attorney's fees.
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.

Page Three  
Award 93-03660

**AFFIRMATION**

I, **JOHN G. DECKARD, ESQ.**, do hereby affirm upon my oath of 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:** November 16, 1994