

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Name of Claimant(s)

Janet J. Phillips

93-03923

Name of Respondent(s)

Dean Witter Reynolds Inc.  
Wayne Maddux, Jr.

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**REPRESENTATION**

For Claimant Janet J. Phillips: Mark F. Huard, Esq. of the law firm of Sadler and Associates, Inc., Atlanta, GA.

For Respondents Dean Witter Reynolds, Inc. and Wayne Maddux, Jr.: George D. Sullivan, Esq. in-house counsel for Dean Witter Reynolds, Inc., New York, NY.

**CASE INFORMATION**

Statement of Claim filed on: October 7, 1993

Claimant's Submission Agreement signed on: September 16, 1993.

Joint Statement of Answer filed by Respondents Dean Witter Reynolds, Inc. and Wayne Maddux, Jr. on: November 30, 1993.

Respondent Dean Witter Reynolds, Inc.'s Submission Agreement signed on:

Respondent Wayne Maddux, Jr.'s Submission Agreement signed on:

**HEARING INFORMATION**

Hearing Dates/Sessions: April 6, 1995 / One Session  
April 7, 1995 / Two Sessions

Hearing Location: NASD offices located in Atlanta, GA.

### **CASE SUMMARY**

Claimant, Janet Phillips, asserts that Respondent Wayne Maddux as an agent or in concert with Respondent Dean Witter Reynolds, Inc. through fraud and misrepresentation secured her assets and made securities transactions which caused her account with them to lose value. Claimant further maintains that the Respondents made unsuitable investments in reckless disregard of her stated investment objectives. More specifically, Claimant contends that after gaining control of her assets in June 1987, the Respondents liquidated her conservative high-rated holdings and purchased non-rated high risk stocks and proprietary mutual funds in clear disregard of her wishes. The Claimant further states that although she received monthly statements, she did not complain because she was an elderly, trusting and unknowledgeable investor who did not know of her right to protest the unauthorized trading. Moreover, she insists that the Respondents had the duty to tell her of this right but they never did. Claimant further alleged the Respondent Dean Witter Reynolds, Inc. failed to properly supervise Respondent Wayne Maddux, Jr. and the Claimant's account.

Respondents make a general denial and maintain that the Claimant's stated investment objectives were followed and the Claimant was informed of the risks involved in the transactions and she authorized all of the transactions and no misrepresentations or omissions of material facts were made to the Claimant. Moreover, Respondents contend that they were not reckless with respect to the Claimant's investments and the Respondent Dean Witter Reynolds, Inc. had reasonable and adequate supervisory control over the account during the period in dispute and they had no intention to defraud the Claimant. Respondents further maintain that punitive damages should not be awarded since they are outside the authority of the arbitration panel to award and further requested that the claim be dismissed based on the relevant statute of limitations.

### **RELIEF REQUESTED**

Claimant requested compensatory damages of \$20,805.00, punitive damages of \$62,415.00 and lost interest of \$81,400.31.

Respondents requested a dismissal of all claims.

### **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. All claims against the Respondents are dismissed in all respects.

2. The Claimant's request for punitive damages is denied.
3. Each party shall bear their respective costs including attorneys' fees.

**FORUM FEES**

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

3 sessions x \$500.00 = \$1,500.00 less Claimant's hearing session  
deposit (\$500.00) = \$1,000.00 net due.

The Claimant be and hereby is liable and shall pay to the NASD the sum of \$1,000.00 representing the balance of the forum fees.

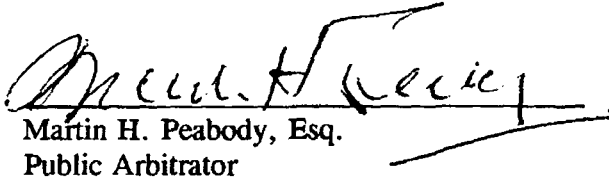
Fees are payable to the National Association of Securities Dealers, Inc.

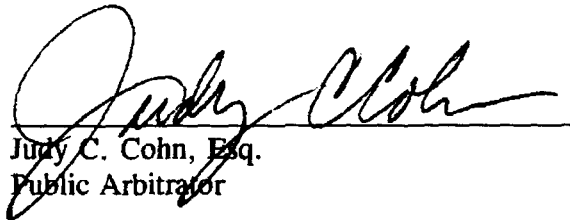
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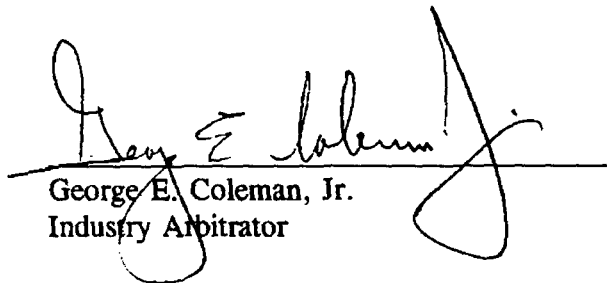
Award #93-03923

ARBITRATOR'S SIGNATURE

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Martin H. Peabody, Esq.  
Public Arbitrator

  
Judy C. Cohn, Esq.  
Public Arbitrator

  
George E. Coleman, Jr.  
Industry Arbitrator

Date of Decision: May 16, 1995