

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between

Name of Claimant

Norman Bellinger

93-05228

Name of Respondent

Dean Witter Reynolds, Inc.

REPRESENTATION OF PARTIES

Claimant, Norman Bellinger ("Bellinger") was represented at the hearing by Louis L. Plotkin, Esq. and Steve Kupperman, Esq. of Stone Pegman Walther Wittmann & Hutchinson, New Orleans, Louisiana.

Respondent, Dean Witter Reynolds, Inc. ("Dean Witter") was represented at the hearing by Curt H. Mueller, Esq. of Dean Witter Reynolds, San Francisco, California.

CASE INFORMATION

The Statement of Claim was filed on December 17, 1993. Submission Agreement of Claimant was signed on January 26, 1994.

Statement of Answer was filed by Respondent on March 28, 1994. Submission Agreement of Respondent was signed on March 25, 1994.

HEARING INFORMATION

The hearing was held on November 8, 1994 for two (2) sessions, November 9, 1994 for two (2) sessions and on November 10, 1994 for two sessions in New Orleans, Louisiana for a total of six (6) sessions.

CASE SUMMARY

Claimant Bellinger set forth in his Statement of Claim that Respondent Dean Witter recommended and purchased unsuitable securities for his retirement account, failed to explain the risks involved and the illiquid nature of the investments, and breached the fiduciary duty to handle Bellinger's account prudently.

More specifically, Bellinger alleged that despite his conservative investment objective, Dean Witter purchased high-risk junk bonds and high-risk, high-commission limited partnerships such as Quinoco Oil and Gas income fund limited partnership and National Lease Income Fund. Bellinger further alleged that Dean Witter did not always disclose the true distributions from the investments. As a result, Bellinger stated that he has suffered severe emotional and mental anguish as a consequence of Dean Witter's gross misconduct.

Respondent Dean Witter stated in their Statement of Answer that they deny any wrongdoing. Dean Witter alleged that the limited partnerships were suitable and consistent with his investment objectives, and that a prospectus was forwarded to him. Dean Witter alleged that there is no evidence that they intentionally or negligently recommended an inappropriate investment. Dean Witter also alleged that given Bellinger's background in the oil and gas industry, he understood the risks involved.

RELIEF REQUESTED

Claimant requested compensatory and punitive damages, interest, costs, and attorney's fees, and for such other and further relief as the panel deems appropriate.

Respondent requested that the claim be dismissed in their entirety and that they be awarded their attorney's fees and costs.

OTHER ISSUES CONSIDERED & DECIDED

The parties have agreed that the Award in this matter may be executed in 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 N.A.S.D.

AWARD

At the hearing, Dean Witter asserted their Motion To Dismiss based on Section 15 of the NASD Code of Arbitration Procedure and Claimant asserted their response. The panel ruled to take the motion under advisement. The motion was later denied.

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

1. Respondent Dean Witter shall be and hereby is liable for, and shall pay to the Claimant, Norman Bellinger, compensatory damages in the sum of Two Hundred, Twenty Three Thousand, Three Hundred Thirty Four Dollars and No Cents (\$223,334.00);

2. Respondent, Dean Witter shall be and hereby is liable for, and shall pay to the Claimant, Norman Bellinger, interest on the above stated sum of \$223,334.00, at seven percent (7%) to accrue from November 1, 1993 until the date the award is paid;

3. Respondent, Dean Witter shall be and hereby is liable for, and shall pay to the Claimant, Norman Bellinger, attorney's fees in the sum of Fifteen Thousand Dollars and No Cents (\$15,000.00). The panel awarded attorney's fees based on the authority of Louisiana Blue Sky law, LA.R.S. 51:714(A);

4. Claimant's request for punitive damages is denied;

5. Each of the parties shall bear their own costs other than those specifically enumerated for herein.

FORUM FEES

Pursuant to §43(c) of the N.A.S.D. Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. ("N.A.S.D.") shall retain the non-refundable filing fee in the amount of \$250.00 and shall retain as forum fees the hearing session deposit in the amount of \$1000.00 previously deposited with the N.A.S.D. by the Claimant.

Forum fees are calculated at the rate of \$1000.00 per hearing session x 6 sessions = \$6000 minus hearing session deposit of \$1000 = net \$5000 due to the NASD.

The panel has ordered that Respondent shall pay the additional forum fees in the sum of \$5000.00 to the NASD and that Respondent shall also reimburse to the Claimant the sum of \$1250 which was previously deposited with the NASD as filing fee and hearing session deposit.

The additional Forum Fees assessed by the panel are payable to the National Association of Securities Dealers, Inc.

By The Arbitration Panel:

s/s Daniel Eugene Bivins

12/8/94

Daniel Eugene Bivins, III
Public Arbitrator, Presiding Chair
s/s William D. Hawkland, Jr., Esq.

12/8/94

William D. Hawkland, Jr., Esq.
Public Arbitrator
s/s Kenneth P. Daigle

12/7/94

Kenneth P. Daigle
Industry Arbitrator