

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Bradford Tiffany

94-00362

Name of Respondents

Dean Witter Reynolds Inc.
Michael Figler

REPRESENTATION

For Claimant: Charles J. Engel, Esq., Syracuse, New York.

For Respondents: Edward W. Larkin, Esq. of Dean Witter Reynolds, Inc., located in New York, New York.

CASE INFORMATION

Statement of Claim filed: January 28, 1994.

Claimant's Submission Agreement signed on: January 12, 1994.

Statement of Answer filed by Respondents Dean Witter Reynolds, Inc. ("Dean Witter") and Michael Figler ("Figler") on: April 28, 1994.

Respondent Dean Witter's Submission Agreement signed on: Respondent Dean Witter did not submit a Submission Agreement as required pursuant to Section 25(b)(1) of the NASD Code of Arbitration Procedure.

Respondent Figler's Submission Agreement signed on: Respondent Dean Witter did not submit a Submission Agreement as required pursuant to Section 25(b)(1) of the NASD Code of Arbitration Procedure.

HEARING INFORMATION

Pre-Hearing Conference: October 18, 1994 / One Session.
 May 1, 1995 / One Session.

Hearing Dates/Sessions: May 17, 1995 / Two Sessions.

Hearing Location: Marriot Hotel located in Albany, New York.

CASE SUMMARY

Claimant alleged that Figler solicited Claimant to purchase shares of EuroDisney S.C.A. ("EuroDisney") and that Figler stated and represented to Claimant that, "EuroDisney is licensed to make money. It is a money machine." Claimant further alleged that Figler misrepresented and omitted to state material facts concerning EuroDisney to Claimant and that Claimant, in reliance upon Figler's misrepresentations and omissions of material facts, purchased 1,000 shares of EuroDisney at a price of \$28 per share. Claimant alleged that had he been adequately and accurately informed of the material facts concerning the EuroDisney shares, he would not have purchased the stock. Claimant further alleged that Figler's representations were made with a knowing intent to deceive the Claimant as to Figler having reliable and dependable information on which to base his representations that EuroDisney was "licensed to make money" and a "money machine." Claimant next alleged that Figler had committed common law fraud and reckless misconduct in connection with the Claimant's purchase of EuroDisney shares. Claimant also alleged that Respondent Figler did not deliver to the Claimant a prospectus or other offering information concerning EuroDisney. Claimant alleged that Respondent Dean Witter was liable for Figler's acts since they were committed by Figler in the course of his employment as an account executive by Dean Witter.

Respondents in their joint Statement of Answer maintained that Figler never made the statements that EuroDisney was "licensed to make money" and "It is a money machine" to Claimant. Respondents further maintained that Claimant was a sophisticated investor and businessman and knew that investments are not guaranteed to make money. Respondents next maintained that Figler never recommended investments to Claimant and that Figler did not contact Claimant for the purpose of soliciting an investment in shares of EuroDisney. Respondents maintained that Respondent did not deliver a prospectus to Claimant because share of EuroDisney were trading in the secondary market and so there was no responsibility to provide Claimant with a prospectus.

Respondents maintained the following affirmative defenses: (1) Claimant's claims were barred in whole or in part by the applicable periods of eligibility or statutes of limitation; (2) Claimant's claims were precluded by the related doctrines of waiver, estoppel and mitigation of damages; (3) and, the losses which were the subject of the Claim were caused by market movements and economic fluctuations beyond the control of Respondents and not attributable to them.

RELIEF REQUESTED

Claimants requested:

1. Damages in the amount of up to \$28,502.86.
2. Claimant's legal fees.
3. Claimant's filing fees, costs and disbursements in this proceeding.

Respondents requested:

1. That the Claimant's claims be dismissed and that costs be assessed against Claimants.

AWARD

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

1. All of Claimant's claims against Respondents Dean Witter and Figler are denied.

Page 4

NASD Award #94-00362

FORUM FEES

Pursuant to Section 43c of the Code of Arbitration Procedure, the following Forum Fee(s) are assessed.

2 Prehearing sessions X \$300 = \$600

2 hearing sessions X \$400 = \$800

Total Forum Fees = \$1,400

Forum fees Assessed Against:

Claimant is assessed the sum of \$1,400 which represents the total forum fees due, less \$400 hearing session deposit paid by Claimant, leaving \$1,000 due. Claimant is liable and shall pay to the NASD the sum of \$1,000.

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


Page 5

NASD Award #94-00362

Concurring Arbitrators' Signatures

Name

Public Chairperson



David W. Morris, Esq.

Name

Public Panelist

Carl W. Engstrom, Esq.

Name

Industry Panelist

David L. Smith

Date of Decision: August 2, 1995

Page 6

NASD Award #94-00362

I, David W. Morris, Esq., do hereby affirm pursuant to Article 7507 of the Civil Procedure Law & Rules, that this my decision in the above-captioned matter.

David W. Morris

I, Carl W. Engstrom, Esq., do hereby affirm pursuant to Article 7507 of the Civil Procedure Law & Rules, that this my decision in the above-captioned matter.

I, David L. Smith, do hereby affirm pursuant to Article 7507 of the Civil Procedure Law & Rules, that this my decision in the above-captioned matter.

Page 5

NASD Award #94-00362

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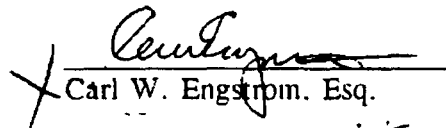
Name

Public Chairperson

David W. Morris, Esq.

Name

Public Panelist


X Carl W. Engstrom, Esq.

Name

Industry Panelist

David L. Smith

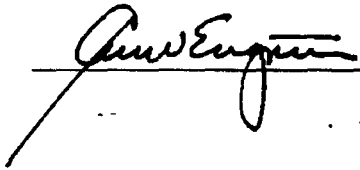
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