

NASD REGULATION, INC.
AWARD

In the Matter of the Arbitration Between

Name of Claimant

John W. Hobbble

94-00367

Name of Respondents

Dean Witter Reynolds Inc.
Helen Dachter
Stephen J. DiModica

REPRESENTATION

For Claimant John W. Hobbble ("Hobbble") appeared Daniel B. Berman, Esq., of the law offices of Hancock & Estabrook located in Syracuse, New York.

For Respondents Dean Witter Reynolds Inc. ("Dean Witter"), Helen Dachter ("Dachter") and Stephen J. DiModica ("DiModica"), collectively "Respondents", appeared Theodore A. Krebsbach, Esq. of the law offices of Theodore A. Krebsbach & Associates, P.C. located in New York, New York.

CASE INFORMATION

Hobbble's Statement of Claim was filed on January 27, 1994.
Hobbble's Submission Agreement was signed on January 11, 1994.

Respondents' Joint Statement of Answer was filed on May 5, 1994.
Dean Witter's Submission Agreement was signed on May 5, 1994.
Dachter's Submission Agreement was signed on May 4, 1994.
DiModica's Submission Agreement was signed on May 3, 1994.

HEARING INFORMATION

Hearing Date/Sessions: May 28, 1998 One Session

The hearing was conducted at the Raddison Downtown located in Buffalo, New York.

CASE SUMMARY

Hobble alleged that he was employed by Respondent Dean Witter, in its Syracuse, New York office, as a registered representative, from October 29, 1984 until February 10, 1993. On February 10, 1993, Claimant tendered his written resignation in order to begin employment with Jamison DeWitt & Associates. Hobble alleged that, on February 16, 1993, Respondents caused a Uniform Termination Notice for Securities Industry Registration ("U-5"), to be filed with the NASD, the American Stock Exchange, the NYSE, and other exchanges, which falsely stated that Hobble was "discharged" as a result of "low production". Hobble contended that Respondents should have known that he had resigned his position. Upon receiving a copy of his U-5, Claimant telephoned Dachter, who told him that he would have to speak with DiModica, his branch manager. Hobble further alleged that he spoke with DiModica, who stated to him that the "U-5 doesn't mean anything and you didn't resign. You cracked under the pressure." Additional attempts by Claimant to resolve the issue were rejected in that Claimant's phone calls were not taken or returned. Hobble alleged that by filing a false U-5, Respondents have adversely affected his prospects for future employment and earning potential.

Respondents maintained that Dachter had never spoken to or met Hobble. Respondents maintained that DiModica, met with Hobble, in January 1993, and discussed in detail with him the deficiencies in his business. Respondents asserted that, during January 1993, Hobble's performance declined even further thus DiModica cut Hobble's monthly draw against his commissions from \$1,200.00 to \$740.00 a month. Respondents maintained that, on February 9, 1993, DiModica discussed Hobble's poor performance with him in detail and warned him that he was in danger of being terminated if his performance did not improve. Respondents further maintained that, on February 10, 1993, Hobble caused a disturbance in the office. Accordingly, DiModica discussed the incident and subsequently terminated Claimant's employment. Respondents maintained that DiModica stated to Hobble that he would pay Hobble benefits and draw until the end of February and that, as long as he caused no further disturbances, Hobble could use an office to help him secure a new position. Respondents asserted that shortly thereafter, Hobble handed DiModica his letter of resignation. Respondents maintained that Hobble's U-5, properly indicated that he had been "discharged" due to "low production".

RELIEF REQUESTED

Hobble requested:

- (a) Compensatory damages in the amount of \$100,000.00;
- (b) Unspecified amount of special damages to compensate him for the diminution in earning capacity; and
- (c) Punitive damages in the amount of \$200,000.00.

Respondents requested that the Statement of Claim be dismissed in its entirety.

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 NASD.

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. Hobble's claims are hereby dismissed in their entirety.
2. Respondents be and hereby are jointly and severally liable for and shall pay to Hobble the sum of \$375.00 as reimbursement of one-half of the hearing session deposit previously paid by Hobble.
3. All other requests are hereby denied.

FORUM FEES

Pursuant to Rule 10205(c) of the NASD Regulation Code of Arbitration Procedure, the arbitrators have determined that the NASD will retain the \$500.00 non-refundable filing fee deposited by Hobble and have assessed the following Forum Fees:

1 Hearing Session x \$750.00 = \$750.00

Total Forum Fees = \$750.00

1. Hobble be and hereby is liable for and shall pay the sum of \$375.00, representing one-half of the total forum fees assessed. Hobble previously deposited \$750.00 with NASD Regulation, and, therefore, no remittance is required.
2. Respondents be and hereby are jointly and severally liable for and shall pay the sum of \$375.00 representing one-half of the total forum fees assessed. Hobble previously deposited \$750.00 with NASD Regulation, Inc., and, therefore, Respondents are jointly and severally liable for and shall pay to Hobble the sum of \$375.00 as provided for in the "Award" section above.

Fees are payable to NASD Regulation, Inc.

ARBITRATION PANEL

John M. Hinchcliff, Esq.	-	Public Chairperson
Sandeep Singh	-	Public Arbitrator
Roy R. Neureuter	-	Industry Arbitrator


CONCURRING ARBITRATOR'S SIGNATURE



John M. Hinchcliff, Esq.
Chairperson - Public Arbitrator

Date of decision: July 10, 1998

I, John M. Hinchcliff, Esq., do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument which is my award.

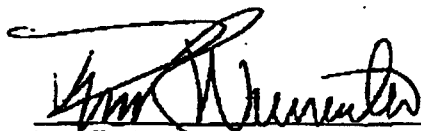


John M. Hinchcliff, Esq.

ARBITRATION PANEL

John M. Hinchcliff, Esq.	-	Public Chairperson
Sandeep Singh	-	Public Arbitrator
Roy R. Neuteuter	-	Industry Arbitrator

CONCURRING ARBITRATOR'S SIGNATURE

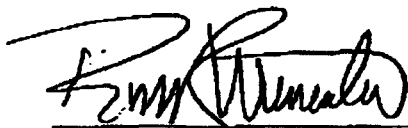


Roy R. Neuteuter
Industry Arbitrator

Date of decision:

July 10, 1998

I, Roy R. Neuteuter, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument which is my award.



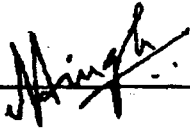
Roy R. Neuteuter

ARBITRATION PANEL

John M. Hinchcliff, Esq.	-	Public Chairperson
Sandeep Singh	-	Public Arbitrator
Roy R. Neureuter	-	Industry Arbitrator

CONCURRING ARBITRATOR'S SIGNATURE

Sandeep Singh
Public Arbitrator



Date of decision:

July 10, 1998

I, Sandeep Singh, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument which is my award.

Sandeep Singh

