

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant(s)

Maurice Levinsky
Frederica Levinsky

94-01106

Name of Respondent(s)

Dean Witter Reynolds Inc.
Perry Lee
Robin G. Harris
Nicholas Mueller

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on March 22, 1994, Claimants Maurice and Frederica Levinsky, who appeared Pro Se, alleged that Respondent Dean Witter Reynolds, Inc., Perry Lee, Robin Harris and Nicholas Mueller mishandled their request to liquidate Dean Witter Mutual Funds, their two IRA accounts, and further that due to the Respondents' failure to promptly follow their instructions, they did not receive "re-credits" of the sale of these investments. The Claimants contended that due to the Respondents' wrongdoing, they should be awarded the sales charge re-credits they are entitled to.

Respondents Dean Witter Reynolds, Inc., Perry Lee, Robin G. Harris and Nicholas Mueller, through their in-house counsel, Ann Marie P. McAvoy, Esq., maintained that Claimants are not entitled to have the Contingent Deferred Sales charge waived, because it can only be waived when a taxable distribution is taken in certain limited circumstances with IRS regulations, and further that Claimants did not take a distribution but instead had their funds transferred to IRA accounts at another brokerage firm. Respondents contended they deny all allegations of wrongdoing.

RELIEF REQUESTED

Claimant, Maurice Levinsky, requested \$989.99 and \$354.38 in actual damages, plus interest.

Claimant, Frederica Levinsky, requested \$324.62 in actual damages, plus interest.

Respondents, Dean Witter Reynolds, Inc., Perry Lee, Robin G. Harris and Nicholas Mueller, requested that the claims of Claimant be dismissed.

AWARD

Pursuant to Section 13 of the NASD, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Arnold Linsky, was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimants on May 16, 1994 and by the Respondent Dean Witter Reynolds, Inc. on August 15, 1994.

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. Respondents Dean Witter Reynolds, Inc., Perry Lee, Robin G. Harris and Nicholas Mueller are jointly and severally liable and shall pay to Claimant Maurice Levinsky \$1,344.37 in actual damages.
2. Respondents Dean Witter Reynolds, Inc., Perry Lee, Robin G. Harris and Nicholas Mueller are jointly and severally liable and shall pay to Claimant Frederica Levinsky \$324.62 in actual damages.
3. Respondent Dean Witter Reynolds, Inc. shall re-credit these sales charges and re code these charges as taxable distribution on the IRA accounts for Claimants Maurice and Frederica Levinsky.
4. The parties shall bear their respective costs.

The \$50.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimants, shall be retained by the NASD. Respondent Dean Witter Reynolds, Inc. is liable and shall pay \$50.00 to the Claimants as reimbursement of the filing fee.

Affirmation

STATE OF

} SS: New Jersey
}

COUNTY OF

Monmouth

I, Arnold Limsky do hereby affirm upon my oath
as arbitrator that I am the individual described in and who executed this instrument,
which is my oath and award.



Signature of Arbitrator

ANDREW RUSSELL
Notary Public, State of New York
No. 02RU5034752
Qualified in New York County
Commission Expires Oct. 17, 19____

Date of Decision: June 8, 1995