

**NATIONAL ASSOCIATION OF SECURITIES DEALERS
AWARD**

In the matter of the Arbitration Between

Name of Claimant
ELIZABETH J. MOORE

NASD Arbitration
No. 94-01318

v.

Name of Respondents
DEAN WITTER REYNOLDS, INC. and
ROBERT WILLIAM INBODY

Representation

For Claimant: Elizabeth Moore, Esq., Vista, California

For Respondents: Tim VerDuin, Esq., of Dean Witter Reynolds, San Francisco, California

Case Information

Statement of Claim filed: April 4, 1994

Claimant's Submission Agreement signed: April 2, 1994

Statement of Answer filed on: July 13, 1994

Respondents' Submission Agreements signed on:

Robert Inbody - June 23, 1994

Dean Witter Reynolds - July 5, 1994; July 26, 1994

Hearing Information

Prehearing Conference Dates/Sessions: None

Hearing Date/Sessions: February 15, 1995 / two

Hearing Location: San Diego, California

Case Summary

Claimant alleged:

Lack of suitability, unauthorized transactions, breach of fiduciary duty and failure to supervise in the purchase of commodity futures. Claimant was a 70 year old woman of relatively modest means and was a novice investor. Respondent Robert Inbody (Inbody) took over her account from her previous broker but never asked about her investment objectives, financial situation or any other relevant information. Inbody did not seem familiar with the current activity of Moore's account. Although Claimant did initiate her own positions in her futures account, the reason she had her accounts at Dean Witter Reynolds (DWR) instead of a discount broker was for guidance in her investment affairs.

Respondents denied each and every allegation of wrongdoing in the Claim and alleged:

Claimant Elizabeth Moore (Moore) first opened her account with DWR in September 1991. She was then the owner of a business, had a net worth of \$150,000, liquid assets of \$100,000 and annual income of \$200,000. She received disclosure documents which clearly described the substantial risks posed by futures trading. There is no legal requirement that a brokerage firm give its customers investment advice.

Claimant admits that her commodity futures trading was all unsolicited and there is no allegation of misrepresentation. When Inbody first became Moore's broker in May 1993, she had already been trading futures and futures options actively for almost one and one-half years and had experienced first-hand the risks involved, having suffered about \$11,000 in losses as of April 30, 1993.

Relief Requested

Claimant requested:

1. Compensatory damages of \$65,000;
2. Punitive damages.

Other Issues Considered and 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 originals remain 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. All claims against Respondent Robert Inbody are dismissed;
2. Respondent Dean Witter Reynolds, Inc. is liable for and shall pay Claimant damages in the amount of \$4,000;
3. The parties shall each bear their respective attorney's fees;
4. The parties shall each bear their respective costs.

Other Costs

None.

Forum Fees

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the following forum fees are assessed: The National Association of Securities Dealers, Inc., shall refund the \$500 hearing session deposit previously paid by the claimant. Forum fees are assessed against:

Respondent Dean Witter Reynolds for \$1,000,


calculated as follows: two hearing sessions at \$500/hearing session, equals \$1,000.


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

Arbitration Panel

<u>Name</u>	<u>Public/Industry</u>
James Knotter	Public
Leo Rotter	Industry
Kenneth Gross	Public

Concurring Arbitrators' Signatures


James Knotter


Leo Rotter

Kenneth Gross

Served 3/8/95

Date of Decision: 2/15/95

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Other Costs

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James Knotter

Leo Rotter



Kenneth Gross

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Feb 15, 1995

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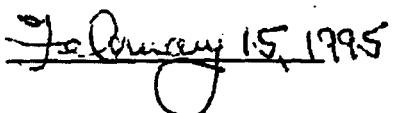
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Date of Decision:

 February 15, 1995