

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

David E. Harlan

94-01547

Name of Respondents

Dean Witter Reynolds, Inc.
Ken Horn

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on April 26, 1994, Claimant, David E. Harlan, who appeared Pro Se, alleged that Respondents, Dean Witter Reynolds, Inc. ("DWR") and Ken Horn ("Horn"), engaged in a transaction without his authorization and were negligent in handling his account. Claimant further alleged that pursuant to an agreement with his ex-wife the entire proceeds of a joint account held at DWR were to be transferred into his name alone. Claimant contended that \$4,362.89 of the proceeds were transferred into his ex-wife's account. Claimant further contended that DWR made substantial modifications to the original authorization delivered to it by Claimant, creating two new original authorizations with different information on each, that was not contained on the original authorization. Claimant alleged that this was done without his knowledge and has caused him a loss for which Respondents should be liable.

Respondent, Dean Witter Reynolds, Inc., through its representative and Assistant Vice President, Linda Poole, Esq., maintained that it transferred the funds to Claimant's ex-wife's account upon her instructions and representations that the funds had been awarded to her by court order. Respondent, DWR further maintained that as soon as the dispute was brought to its attention, it blocked the accounts and subsequently transferred the funds to Claimant's account. Respondent, DWR contended that it has offered to reimburse Claimant for his legal fees in connection with the initial transfer and should not be held to any greater liability.

Respondent, Ken Horn, who appeared Pro Se, maintained that Claimant received the full value of the account and suffered no monetary loss, and accordingly he should not be held liable.

RELIEF REQUESTED

Claimant, David E. Harlan, requested \$9,620.00 in actual damages and \$380.00 as reimbursement of Attorney's fees he paid.

Respondents, Dean Witter Reynolds, Inc. and Ken Horn, requested that the claims of the Claimant be dismissed.

AWARD

Pursuant to Section 13 of the NASD, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Chet Olsen, was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on September 14, 1993 and by the Respondent, Ken Horn, on February 7, 1995 and by Respondent, Dean Witter Reynolds, Inc., on February 10, 1995.

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. Respondent, Dean Witter Reynolds, Inc., is liable and shall pay to the Claimant, David E. Harlan, \$380.00 in actual damages.
2. The claims of the Claimant, David E. Harlan, against Respondent, Ken Horn, are dismissed in their entirety.
3. The parties shall bear their respective costs.
4. The \$150.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant, David E. Harlan, shall be retained by the NASD, Inc.


Affirmation

STATE OF

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COUNTY OF

I,  CHET H. OLSEN, 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

Date of Decision: October 18, 1995