

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Name of Claimant

Seymour Link, Trustee of the  
Anna Link Revocable Trust DTD

94-01717

Name of Respondents

Dean Witter Reynolds, Inc.  
William T. Torppey

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CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on May 10, 1994, Claimant Seymour Link, Trustee of the Anna Link Revocable Trust DTD ("Claimant"), through his representative, Martin J. Gofberg, of Securities Arbitration Center, Inc., in Fort Lauderdale, FL., alleged that Respondents Dean Witter Reynolds, Inc. ("DWR") and William T. Torppey, sold Claimant 10 units of Chrysler Capital Income Limited Partnership ("CCILP") at \$1,000.00 per unit for \$10,000.00 on November 17, 1989. Claimant further alleged that CCILP was unsuitable for a conservative investor, but that he had been told by the Respondents that this limited partnership would be a "great investment". Claimant contended that Respondent William T. Torppey, "represented and guaranteed", to Claimant that he would receive an annualized return at the rate of 12 3/4%. Claimant further contended that the return he received on his investment was not actual earnings but was a return of the principal. Claimant alleged that the actual value of the \$10,000.00 investment is now \$3,375.00 on the secondary market according to Securities Service Network, Inc., and as a result of the above, Claimant has suffered a loss for which, Respondents should be held liable.

Respondent Dean Witter Reynolds, Inc., through its Vice President and Senior Attorney, Paul G. Thomas, Esq., in New York, New York, maintained that Claimant's \$10,000.00 investment in CCILP was not uncommonly risky, and the only unusual risk of the investment was its illiquidity. Respondent further maintained that Claimant's investment amounted to no more than 2.1% of his DWR portfolio alone, and "an investment of less than 5% of a large net worth in an illiquid security is suitable for a wealthy elderly investor". Respondent contended that the prospectus for CCILP expressly disclaims any assurance of

cash distributions or other objectives, and thus there exists no cause of action for Respondent's alleged guarantee of a 12.5% annual return. Respondent further contended that the fact that capital is returned as part of cash distributions is fully disclosed in the prospectus, and that Claimant never lost money on this investment, and as a result of the above, Respondent should not be held liable in this matter.

Respondent William T. Torppey, who appeared Pro Se, maintained that Claimant received a prospectus and signed a subscription agreement prior to purchase. Respondent further maintained that the investment in CCILP was suitable considering the Claimant's net worth. Respondent contended that he never guaranteed a rate of return on the investment. Respondent further contended that Claimant is a wealthy investor trying to capitalize on recent publicity concerning Limited Partnerships, and as a result of the above, Respondent should not be held liable in this matter.

#### **RELIEF REQUESTED**

Claimant Seymour Link, Trustee of the Anna Link Revocable Trust DTD, requested \$10,000.00 in actual damages, plus costs.

Respondent Dean Witter Reynolds, Inc., requested that the claims of the Claimant be dismissed.

Respondent William T. Torppey, 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, Guthrie F. Crowe, was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on August 9, 1993 and by the Respondent Dean Witter Reynolds, Inc. on September 23, 1994. Respondent William T. Torppey, did not submit a Submission Agreement as required pursuant to the NASD Code of Arbitration Procedure.

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. The claims of the Claimant Seymour Link, Trustee of the Anna Link Revocable Trust DTD, against Respondents Dean Witter Reynolds, Inc. and William T. Torpey, are dismissed in their entirety.
2. The parties shall bear their respective costs.
3. The \$150.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant Seymour Link, Trustee of the Anna Link Revocable Trust DTD, shall be retained by the NASD, Inc.

**AFFIRMATION**

I, **GUTHRIE F. CROWE**, do hereby affirm upon my oath as arbitrator that I am the individual described herein and who executed this instrument, which is my oath and award.

  
Guthrie F. Crowe

**DATE OF DECISION:** August 28, 1995