

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant(s)

Ray F. Bain

95-00169

Name of Respondent(s)

Dean Witter Reynolds Inc.
Carlos F. Fernandez

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on January 11, 1995 Claimant Ray F. Bain, who appeared Pro Se, alleged that Respondent Carlos F. Fernandez of the Respondent firm Dean Witter Reynolds Inc. mishandled accounts he held with the firm. The Claimant also alleged that Respondent Fernandez advised him to sell his shares of Coventry stock to purchase Tiphook stock which decreased in value. The Claimant contended that because the account was mishandled, he had to transfer to another brokerage firm, and in addition, that the Respondents failed to send him his distributions he was entitled to. Claimant Ray F. Bain asserted that he then had to have his IRA account transferred to another firm as well, and that he was charged \$697.82. The Claimant contended that he suffered damages due the Respondents' wrongdoing, and therefore they should be held liable in this matter.

Respondents Dean Witter Reynolds Inc., through their representative, John C. Boschen, maintained that Claimant authorized the sale of his Coventry stock in accordance with his desire for income rather than growth, and further that Claimant agreed to purchase Tiphook and gave Respondent Fernandez instructions to buy 200 shares. Respondents also maintained that Claimant was contacted immediately when the stock started to drop in value to apprise him of the status and to recommend he sell the stock, which Claimant did. Respondents maintained that they committed no wrongdoing, and therefore the claims against them should be dismissed.

RELIEF REQUESTED

Claimant Ray F. Bain requested \$1,697.66 in actual damages.

Respondents Dean Witter Reynolds Inc. and Carlos Fernandez 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, Craig Edward Stein, Esq., was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on January 24, 1995, but not signed by the Respondents as required by Sections 12 and 13 of 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. Respondents Dean Witter Reynolds Inc. and Carlos Fernandez are jointly and severally liable and shall pay to Claimant Ray F. Bain \$1,697.66 in actual damages.
2. Respondents Dean Witter Reynolds Inc. and Carlos Fernandez are jointly and severally liable and shall pay to Claimant Ray F. Bain \$450.94 in interest.
3. The parties shall bear their respective costs.
4. The \$50.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant shall be retained by the NASD, Inc. Respondents Dean Witter Reynolds Inc. and Carlos Fernandez are jointly and severally liable and shall pay \$50.00 to the Claimant as reimbursement of the filing fee.

AFFIRMATION

STATE OF Florida

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SS:

COUNTY OF DADE

I, Craig Edward Stein, 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.



Signature of Arbitrator

DATE OF DECISION:

May 3, 1996