

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

Ranjit Desai and Shobhana Desai

95-00428

Name of Respondents

Dean Witter Reynolds, Inc.
Michael Turner

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on February 28, 1995, Claimants Ranjit Desai and Shobhana Desai, through their representative Robert M. Roth, Appleton, WI, alleged that Respondent Michael Turner ("Turner"), a broker at Respondent Dean Witter Reynolds, Inc. ("DWR"), sold them shares of SGI International ("SGI") stock. Claimants further alleged that their investment in SGI, a highly speculative technology stock, was unsuitable for their accounts. Claimants contended that Respondent Turner never described the risks of the investment in question, and only touted the substantial gains to be made. Claimants contended that Respondent Turner failed to inform Claimants of the risks of margin. Claimants further contended that Respondent Turner's encouragement to "very heavily" utilize margin in their joint account led to an interest expense in 1992 of over \$500.00. Claimants alleged that Respondents falsely and fraudulently made misleading statements with the intent to defraud and deceive Claimants and to cover up their actions. Claimants further alleged that Respondents breached their fiduciary duty to Claimants. As a result of the above, Claimants contended that they have suffered damages for which the Respondents should be held liable.

Respondents Dean Witter Reynolds, Inc. and Michael Turner, through their representative, Janet T. Epstein, Esq., San Francisco, CA, maintained that the Claimants stated their investment objective as capital appreciation and aggressive income. Respondents further maintained that Claimants never told Respondent Turner that the funds invested in Claimants' accounts needed to be invested for conservative growth. Respondents contended that Claimant Ranjit Desai ("Mr. Desai") never discussed margin with Respondent Turner, and that Claimants used margin to purchase their investments for four years prior to the time that Respondent Turner became their account executive. Respondents further contended that Claimants purchased a total of 1430 shares of SGI stock from them. Respondents maintained that although Respondent Turner told Mr. Desai to sell his SGI stock on numerous occasions, Mr. Desai continued to hold the SGI stock. Respondents further maintained that prior to Claimants' purchase, Respondent Turner provided them with research reports and annual statements on the SGI stocks. Respondents contended that in the Claimant's Statement of Claim, Claimants have provided no evidence of a failure to supervise, a breach of fiduciary duty, or negligence. Respondents further contended that Claimants have provided no evidence of bad faith on the part of Respondents. Respondents maintained that they acted reasonably with regard to their dealings with Claimants. As a result of the above, Respondents contended that they should not be held liable in this matter.

RELIEF REQUESTED

Claimants Ranjit Desai and Shobhana Desai requested actual damages in an amount not less than \$9,000.00, plus pre-award and post-award interest at 10% from the date of the original investment, and costs, including reasonable consulting fees.

Respondents Dean Witter Reynolds, Inc. and Michael Turner requested that the Claimants' Statement of Claim be dismissed in its entirety.

AWARD

Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single public arbitrator, Stephen M. Venezia, Esq., was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimants on January 7, 1995, by Respondent Dean Witter Reynolds, Inc. on April 17, 1995, and by Respondent Michael Turner on April 12, 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. The claims of Claimants Ranjit Desai and Shobhana Desai against Respondents Dean Witter Reynolds, Inc. and Michael Turner 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 Claimants shall be retained by the NASD, Inc. Respondent Dean Witter Reynolds, Inc. is liable and shall pay to the Claimants \$150.00 as reimbursement of the filing fee.

AFFIRMATION


STATE OF

}
}

SS:

COUNTY OF

I, Stephen M. Venezia, 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: January 10, 1996