

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant(s)

John E. and Vicky Vermeulen

95-00464

Name of Respondent(s)

Mark Simpson

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on January 30, 1995, Claimants John E. Vermeulen, Sr. and Vicky Vermeulen, who appeared Pr Se, alleged that Respondent Mark Simpson sold them an investment which was not appropriate for them. Claimants further alleged that they met with Respondent, a representative of Dean Witter Reynolds, in June, 1993 and informed him that they had \$50,000 to invest and wished the investment to be one which was liquid, at no greater risk than a money market, and earned more than a money market. Claimants contended that Respondent recommended TCW/DW North American Government Income Trust ("TCW") and represented that it was paying 7% interest and met all of their requirements. Claimants further contended that pursuant to Respondents recommendation they invested \$40,000 in TCW. Claimants alleged that TCW declined in value and that they sold it at a loss on December 29, 1994. Claimants further alleged that Respondent disregarded their investment objectives, causing a loss for which Respondent should be liable.

Respondent, Mark Simpson, through his representative, Wendy R. Robinson, Esq., of Dean Witter Reynolds, Inc., in San Francisco, California maintained that he specifically explained to the Claimants that an investment in TCW could decline in value as well as profit. Respondent further maintained that he provided a prospectus that described the risks of the investment in writing. Respondent contended that Claimants never raised any question upon receipt of their simple, easy-to-read monthly statements which reported to them the decline in value of their investment. As a result of the above, Respondent maintained that he should not be held liable for Claimant's loss.

RELIEF REQUESTED

Claimants, John E. Vermeulen, Sr. and Vicky Vermeulen, requested \$6,369.11 in actual damages, plus \$2,800.00 in interest and costs of \$150.00.

Respondents, Mark Simpson that the claims of the Claimants be dismissed and that he be awarded his costs and attorneys' fees incurred in defense of this claim.

AWARD

Pursuant to Section 13 of the NASD, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Herbert H. Freise, Esq. was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the claimants on January 24, 1995 and by the Respondent on March 16, 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 follow:

1. The claims of the Claimants, John E. Vermeulen, Sr. and Vicky Vermeulen against the Respondent, Mark Simpson, 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 John E. Vermeulen, Sr. and Vicky Vermeulen shall be retained by the NASD, Inc.

Affirmation

STATE OF
WASHINGTON } SS:

COUNTY OF KING -

I, HERBERT N. FREY, 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: August 30, 1995