

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

Frank and Jean DiMartino

95-00561

Name of Respondents

Dean Witter Reynolds Inc.
William E. Lange

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on February 2, 1995, Claimants Frank and Jean DiMartino, who appeared Pro Se, alleged that Respondent Dean Witter Reynolds, Inc., through its registered representative, William E. Lange, purchased without their knowledge or consent TCW/Dean Witter North American Government Trust. The Claimants further alleged that on April 4, 1994, they gave Respondents a firm order to sell all shares in this investment, but it was not sold timely, causing a \$.16 a share loss, and that Respondents should be held liable in this matter.

Respondents Dean Witter Reynolds, Inc. and William E. Lange, through their representative and in-house counsel, Wendy R. Robinson, Esq., maintained that the Claimants authorized the investment prior to it being entered and executed by Respondent William E. Lange. The Respondents also maintained that Claimants did not order the liquidation of their investment on April 4, 1994, but rather it was after the close of the market on April 7, 1994 that the Claimants told Respondents to sell. The Respondents contended that no wrongdoing has been committed, therefore, the claims of the Claimants should be dismissed.

RELIEF REQUESTED

Claimants Frank and Jean DiMartino, requested \$1,614.00 in actual damages, plus \$1,000.00 for medical bills and \$3,000.00 for pain and suffering.

Respondents Dean Witter Reynolds, Inc. and William E. Lange, requested that the claims of the Claimants be dismissed.

AWARD

Pursuant to Section 13 of the NASD, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Sheldon I. Saitlin, Esq., was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimants on January 30, 1995, and by the Respondent Dean Witter Reynolds, Inc., on April 10, 1995 and by Respondent William E. Lange, on March 16, 1995.

Dissenting Arbitrator

Robert A. Yates

Date of Decision: _____

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 Claimants Frank and Jean DiMartino, against Respondents Dean Witter Reynolds, Inc. and William E. Lange, 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 Frank and Jean DiMartino, shall be retained by the NASD, Inc.

AFFIRMATION


STATE OF Illinois

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SS:

COUNTY OF Cook

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



Signature of Arbitrator

DATE OF DECISION:

September 26, 1995