

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Robert D. Joyce TTEE for the Robert D. Joyce Trust

95-01583

Name of Respondent

Dean Witter Reynolds Inc.

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on March 29, 1995 Claimant Robert D. Joyce TTE for the Robert D. Joyce Trust ("Claimant"), who appeared Pro Se, alleged that he held account #379-094570-0-H-092 with Respondent Dean Witter Reynolds Inc. ("Respondent") and that it mishandled his account on June 1, 1993 by purchasing 3500 restricted shares of Allstate Corp ("AC") instead of the 10,000 he ordered and received confirmation of from the Respondent. Claimant further alleged that he was not notified of the problem until he appeared at Respondent's office with a check for \$265,000.00 which represented the price provided on Respondent's confirmation slip. Claimant contended that he was told that the confirm was a mistake and that he would be limited to 5,000 AC shares. Claimant further contended that Respondent then purchased for him an additional 1,500 shares bringing him to the 5,000 share limit. Claimant alleged that he would have purchased the additional shares elsewhere and as a result of the above, he has suffered a loss for which the Respondent should be held liable.

Respondent Dean Witter Reynolds Inc. through its representative and in-house counsel, Janet T. Epstein, Esq., maintained that as an employee of Allstate, Claimant was eligible to purchase restricted stocks at a discounted price and in accordance with Allstate's instructions, he submitted an Indication of Interest to purchase 10,000 shares. Respondent further maintained that due to the heavy demand of Allstate employees for restricted stock and to the limited number of available shares, it was forced to limit the shares to 5,000 per employee. Respondent contended that purchasing the restricted shares was an employee privilege to be exercised exclusively through Respondent and that employees were never promised that they would be able to purchase the initial 10,000 share maximum. Respondent further contended and as a result of the above, it should not be held liable.

RELIEF REQUESTED

Claimant Robert D. Joyce TTE FBO Robert D. Joyce, requested \$10,000.00 in actual damages.

Respondent Dean Witter Reynolds, 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, Morgan Green, Jr., Esq., was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant Robert D. Joyce TTEE for the Robert D. Joyce Trust, on February 23, 1994 and by the Respondent June 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 the Claimant Robert D. Joyce TTEE for the Robert D. Joyce Trust, against Respondent Dean Witter Reynolds, are denied 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 Robert D. Joyce TTEE for the Robert D. Joyce Trust, shall be retained by the NASD, Inc. The Respondent Dean Witter Reynolds, shall pay to the Claimant Robert D. Joyce TTEE for the Robert D. Joyce Trust, \$150.00 as reimbursement of the filing fee.
4. All other relief requests are denied.

AFFIRMATION

I, MORGAN GREEN, JR., ESQ., 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.



Morgan Green, Jr., Esq.

DATE OF DECISION: February 20, 1996