

NASD AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between

Richard Steele

Claimant

and

**NASD Arbitration
No. 95-02070**

Dean Witter Reynolds Inc.

Respondent

REPRESENTATION OF PARTIES

Richard Steele ("Claimant") was represented by James F. Fotenos, Esq., San Francisco, California.

Dean Witter Reynolds Inc. ("Respondent") was represented by Curt H. Mueller, Esq., San Francisco, California.

CASE INFORMATION

Claimant's Statement of Claim was filed on or about April 28, 1995. Claimant's Submission Agreement was signed on April 25, 1995. The Claimant's Reply to the Counterclaim was filed on or about June 29, 1995.

Respondent Dean Witter Reynolds Inc. Statement of Answer and Counterclaim was filed on or about June 19, 1995. The Submission Agreement of Respondent Dean Witter Reynolds Inc. was signed on June 15, 1995.

HEARING INFORMATION

A pre-hearing conference was held on January 9, 1996.

The hearing was held on February 20 and 21, 1996 in San Francisco for a total of 4 sessions.

CASE SUMMARY

Claimant alleged that the respondent's failed to reimburse fully the legal expenses incurred by the Claimant in defense of two previous arbitrations and a related NASD Disciplinary Action. Claimant alleged that this action led to a subsequent twelve month suspension by the NASD due to the Claimant's deteriorated financial condition and inability to meet the requirements of an earlier settlement offer proffered by the NASD which required only a one month suspension. Claimant also alleged that the respondent is liable for reasonable wages the Claimant would have earned had he been gainfully employed during the period of the suspension.

Respondent denied the allegations set forth in the Statement of Claim. Respondents specifically denied any obligation to reimburse Claimant for the consequences of his settlement with the NASD. Respondent also denied any legal obligation to reimburse Claimant for any fees incurred by the Claimant in excess those already agreed to by the parties. Respondent in their counterclaim requested indemnification for monies paid out on the Albers and Guiliano settlements.

Claimant argued that the allegations raised in the counterclaim should be denied.

RELIEF REQUESTED

Claimant requested an award of all legal fees and expenses incurred by the Claimant in defense of the Stone and Perry arbitrations. Claimant is also seeking \$10,000 as reimbursement for the fine assessed by the NASD, and \$50,000 as lost wages. Fees and costs are also sought by the Claimant.

Respondent requested that the claims asserted against it be denied in its entirety and that it be awarded its' costs and attorneys' fees. Respondent's are seeking indemnification for two settlements made by the Respondent on accounts handled by the Claimant.

OTHER ISSUES CONSIDERED & DECIDED

The parties have agreed that a handwritten, signed Award may be entered. The parties have agreed to receive conformed copies of the award while the original remains on file with the NASD.

AWARD

After considering the pleadings, the testimony, and the evidence presented at the hearing and the post-hearing submissions, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. Each and every claim of the Claimant is dismissed;
2. Each and every claim of the Respondent's counterclaim is dismissed;
3. The parties shall each bear their respective attorney's fees;
4. The parties shall each bear their respective costs.

FORUM FEES

Forum fees are calculated at the rate of \$600 per hearing session and \$300 for each pre-hearing conference, if any. There were 4 sessions x \$600 = \$2400, and 1 pre-hearing conference session x \$300 = \$300 for a total of \$2,700.00 in forum fees. Pursuant to §43(c) of the Code of Arbitration Procedure, the parties shall divide the forum fees 50%-50%. Pursuant to §43(b) of the NASD Code of Arbitration Procedure (the "Code"), a hearing session is any meeting between the parties and the arbitrator(s), including a pre-hearing conference with an arbitrator, which lasts four (4) hours or less.

Total Fees

4 Hearing Sessions @ \$600.00 -	\$2400.00
1 Pre hearing session @\$300.00 -	<u>\$ 300.00</u>
Total	\$2700.00

Claimant's 1/2 share	\$1350.00
Claimant's credit for deposit	<u>\$ 600.00</u>
Claimant's balance	\$ 750.00

Respondent's 1/2 share	\$1350.00
Respondent's credit for deposit	<u>\$ 600.00</u>
Respondent's Balance	\$ 750.00


Pursuant to §43(c) of the Code, the NASD shall retain the non-refundable filing fee in the amount of \$500 and shall retain as forum fees the hearing session deposit in the amount of \$600 previously deposited with the NASD by the Claimant Richard Steele. Additionally, the NASD shall retain the non-refundable filing fee in the amount of \$500 and shall retain as forum fees the hearing session

deposit in the amount of \$600 previously deposited with the NASD by the Respondent Dean Witter Reynolds Inc.

Pursuant to §45 of the Code, the NASD shall retain the member surcharge fee in the amount of \$200 previously paid by DeanWitter Reynolds.

No postponement fees were assessed.

Fees are payable to the National Association of Securities Dealers, Inc.



Frank Weaver
Industry Arbitrator, Presiding Chair

Dated:

James R. Dickson
Industry Arbitrator

Lloyd A. Wittenberg
Industry Arbitrator

Date Served: 02/28/96

deposit in the amount of \$600 previously deposited with the NASD by the Respondent Dean Witter Reynolds Inc.


Pursuant to §45 of the Code, the NASD shall retain the member surcharge fee in the amount of \$200 previously paid by Dean Witter Reynolds.

No postponement fees were assessed.

Fees are payable to the National Association of Securities Dealers, Inc.

Dated:

Frank Weaver
Industry Arbitrator, Presiding Chair


James R. Dickson
Industry Arbitrator

February 23, 1996

Lloyd A. Wittenberg
Industry Arbitrator

Date Served: 02/28/96