

NASD REGULATION, INC. AWARD

Office of Dispute Resolution

In the Matter of the Arbitration Between

Names of Claimant

John T. Meo and Betty J. Meo, Co-Trustees
of the Julia Clark Post Trust

95-03822

Names of Respondents

Dean Witter Reynolds, Inc. and
William Haines

REPRESENTATION OF PARTIES

For Claimant the Julia Clark Post Trust ("the Trust") by the Co-Trustees, John T. Meo and Betty J. Meo, ("the Meos"): Brian J. Cooke, Esq. of the law firm of Arnstein and Lehr, West Palm Beach, FL.

For Respondents Dean Witter Reynolds, Inc. ("DWR") and William Haines ("Haines"): Bradford D. Kaufman, Esq. and Joseph C. Coates III, P.A. of the law firm of Steel Hector & Davis LLP, West Palm Beach, FL.

CASE INFORMATION

Statement of Claim was filed on August 8, 1995. Submission Agreement of Claimant was signed on September 15, 1995, by John T. Meo and Betty J. Meo, Co-Trustees.

Statement of Answer was filed by Respondents DWR and Haines on January 5, 1996. Submission Agreement of Haines was signed on June 9, 1997. Submission Agreement of DWR was signed on June 9, 1997 by Karen A Sterk.

HEARING INFORMATION

The evidentiary hearing was held on June 9 and 10, 1997, in Fort Lauderdale, Florida, for a total of four sessions.

CASE SUMMARY

Claimant alleged that in or about 1983, the Meos became Co-Trustees of the Trust established under the Last Will and Testament of Julia Clark Post; that the Meos met with Respondents to establish an investment account for the Trust; and, that the Meos informed Respondents that the Trust's investment objectives were safety of principal with a steady source of income. Claimant further alleged that, after establishing the account, Respondents embarked on a pattern of recommending speculative high risk securities, including TCW/DW Term Trust 2003 ("Trust 2003"), which were contrary to the Trust's stated investment objectives; that in reliance upon Respondents' recommendations, Claimant sold other securities to obtain the funds to invest in Trust 2003; that by selling these other securities, Claimant incurred substantial capital gains which resulted in a further erosion of Claimant's portfolio; and, as a result of the foregoing, Claimant was damaged. Claimant contended that the actions of the Respondents constituted breach of fiduciary duty, failure to supervise, and a violation of Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5 thereunder.

Respondents denied the allegations of wrongdoing contained in the Statement of Claim and maintained that the investment in Trust 2003 was suitable for the Claimant's investment objectives of monthly income. Respondents further alleged that they advised Claimant of the nature and risks associated with the investment; specifically, that it was a long-term investment with the objective of returning Claimant's principal of \$10.00 per share in 2003; that market price and dividends could fluctuate; and, that Claimant was provided with a prospectus. Respondents further maintained that the Claimant sold its Trust 2003 investment at the bottom of the bond market crash of 1994; that any losses incurred by the Claimant were caused by the Meo's decision to sell this investment prematurely; that the losses were caused by the bond market crash; that had the Claimant not sold the investment in June 1995, the Trust would have been in a profitable position; and, that the Trust 2003 is presently on target to return to \$10.00 per share in 2003.

RELIEF REQUESTED

Claimant requested compensatory damages in the amount of \$180,000.00 , loss of return on the investment, and attorneys' fees and costs.

Respondents requested that the Statement of Claim be dismissed in its entirety; that they be awarded costs of \$5,000.00 for their expert witness; and, that all references to this arbitration proceeding be expunged from the Central Registration Depository ("CRD") record of William Haines.

OTHER ISSUES CONSIDERED AND DECIDED

1. At the conclusion of the hearing of this matter, Respondents orally amended their relief request to seek the expungement of this matter from the CRD record of Haines.
2. The parties have agreed that the award in this matter may be executed in counterpart copies or that a handwritten, signed award may be entered. In either case, the parties have agreed to receive a conformed copy of the award while the originals remain on file with NASD Regulation, Inc.

AWARD

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

1. Respondents are found not liable and, therefore, all claims against them are hereby dismissed.
2. All references to this arbitration proceeding shall be expunged from the CRD record of Respondent Haines.

3. No evidence was presented and no argument was made with respect to the Claimant's request for attorneys' fees. The Panel, therefore, did not consider the issue and makes no determination with respect to that request.
4. Claimant's request for costs is denied.
5. Respondents' request for the costs of their expert witness is denied.

FORUM FEES

Pursuant to Rule 10332(b) of the NASD Code of Arbitration Procedure ("Code"), a hearing session is any meeting between the parties and the arbitrators, including a pre-hearing conference with an arbitrator, which lasts four (4) hours or less.

Pursuant to Rule 10332(c) of the Code, the panel has assessed forum fees in the amount of \$3,000.00 (four hearing sessions x \$750.00 per session).

1. Claimant is assessed the sum of \$1,500.00 for which NASD Regulation, Inc. shall retain the \$750.00 previously deposited in partial satisfaction thereof, leaving a balance due to NASD Regulation, Inc. of \$750.00.
2. Respondent DWR is assessed the sum of \$1,500.00 for which NASD Regulation, Inc. shall retain the \$1,000.00 previously deposited for the second adjournment request in partial satisfaction thereof, leaving a balance due to NASD Regulation, Inc. of \$500.00.
3. Respondent DWR is assessed the sum of \$750.00 for the first postponement for which NASD Regulation, Inc. shall retain the \$750.00 previously deposited in full satisfaction thereof. The postponement fee for the second adjournment in the amount of \$1,000.00 is waived and that sum shall be applied to the forum fees assessed in paragraph 2, above.

4. NASD Regulation, Inc. shall retain the non-refundable filing fee of \$200.00 paid by the Claimant.

Fees are payable to NASD Regulation, Inc.

Concurring Arbitrators' Signature

_____/s/_____
John R. Camp, Jr., Esq.
Public Arbitrator, Presiding Chair

_____/s/_____
James W. Geiger, Esq.
Public Arbitrator

_____/s/_____
P. David Isenberg
Industry Arbitrator

Date of Decision: July 16, 1997