

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

L. Patrick Furlong and Valley Retail Service

95-05870

Name of Respondent

Dean Witter Reynolds Inc.

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on December 15, 1995, Claimants L. Patrick Furlong and Valley Retail Service ("Claimant"), who appeared Pro Se, alleged that Respondent Dean Witter Reynolds, Inc. ("Respondent") assured him that it would protect him as a customer so he opened a personal and a business account. Claimant further alleged that he relied on correspondence from Respondent which stated that it has a "sacred trust to protect our customer." Claimant also alleged that he clearly told his broker, Harry Schoettler, that his investment objective was capital preservation as he was in a precarious financial situation. Claimant contended that the trust he placed in Respondent to follow his financial guidelines was violated because he purchased TCW North American Government Income Fund ("TNORA") at Respondent's recommendation. Claimant further contended that he was told TNORA was a minor risk and was not informed of "special risks" associated with it vis-a-vis the Canadian and Mexican economies. Claimant also contended that 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, Linda Poole, Esq., maintained that Claimant brings the claim based on alleged bad investment advice but in reality he wants to recover a loss caused by market forces beyond its control. Respondent further maintained that Claimant is an experienced investor who was looking for income and capital appreciation. Respondent contended that Claimant's investment history in common stock does not support his contention that he desired capital preservation. Respondent maintained that in accord with his investment objectives, TNORA was recommended and he was given a prospectus which clearly described the risks associated with it. Respondent contended that Claimant made numerous voluntary trades in TNORA shares from August 13, 1992 to January 13, 1995. Respondent further contended that Claimant was well aware that TNORA could capture a higher yield than a money market account, a feature which was offset by increased risks. Respondent also contended that Claimant made money from investing in TNORA and that as a result of the above, it should not be held liable.

RELIEF REQUESTED

Claimants L. Patrick Furlong and Valley Retail Services requested \$10,000.00 in actual damages plus costs.

Respondent Dean Witter Reynolds, Inc. requested that the claims of the Claimant be dismissed.

AWARD

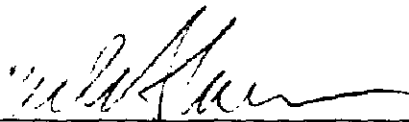
Pursuant to Section 13 of the NASD, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Carl H. Auer, was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimants on December 11, 1995 and by the Respondent on March 4, 1996.

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 L. Patrick Furlong and Valley Retail Services against Respondent Dean Witter Reynolds, Inc. 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 shall be retained by the NASD, Inc. Respondent Dean Witter Reynolds, Inc. shall pay to the Claimants L. Patrick Furlong and Valley Retail Services \$75.00 as reimbursement of one-half of the filing fee.

AFFIRMATION

I, **CARL H. AUER**, 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.



Carl H. Auer

DATE OF DECISION: May 10, 1996