

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Jess Huss

vs.

96-00215

Name of Respondent

Dean Witter Reynolds Inc.
Darlene J. Palmer

REPRESENTATION

Claimant, Jess Huss appeared pro se.

For Respondents, Dean Witter Reynolds, Inc. and Darlene J. Palmer, appeared Annemarie P. McAvoy, Esq. in-house counsel with Dean Witter Reynolds, Inc.

CASE INFORMATION

Statement of Claim filed on January 16, 1996.

Claimant's Submission Agreement signed on January 5, 1996.

Respondent's Joint Statement of Answer signed on March 18, 1996.

Respondent Dean Witter Reynolds Inc. Submission Agreement signed on March 14, 1996.

Darlene J. Palmer's Submission Agreement signed on December 3, 1996.

HEARING INFORMATION

Hearing Date/Sessions: December 3, 1996 - 2 Sessions

Hearing Location: NASD offices located in New York City, New York.

CASE SUMMARY

Claimant alleged that she was an unsophisticated and inexperienced investor who had no money until she sold her home. Claimant alleged that she consulted with Respondent, Darlene Palmer

("Palmer"), of Respondent, Dean Witter Reynolds, Inc. ("Dean Witter"), and on July 16, 1990 she entrusted \$130,119.47 to Darlene J. Palmer and Dean Witter. Claimant alleged that the purpose of the account was to receive a guaranteed monthly income. Claimant further alleged that Palmer assured her that the funds would not be at any risk and that Claimant would suffer no loss on the account. Claimant alleged that since she had no investment experience, she placed complete trust in Palmer and Dean Witter and relied solely on Palmer's judgement to invest her money.

Claimant alleged that on April 22, 1991, Palmer purchase 11,360 shares of Blackrock Strategic Term Trust ("Blackrock", f/k/a Blackstone Strategic Term Trust) at 10 1/8 per share, for a total of \$117,721.87.

Claimant alleged that during 1994 the principal in her account dropped to \$81,000.00 and that at no time was she ever told nor did she received information that her principal was not guaranteed until she requested a prospectus from Palmer, which she had not previously received. Claimant alleged that Palmer's failure to she a prospectus and/or fully disclose her funds were to be invested was contrary to the Rules of Fair Practice & inconsistent with the just and equitable principles of trade.

Claimant alleged that on January 3, 1995 she contacted the Florida office of Dean Witter and was informed that her principal was not guaranteed with Blackrock. In addition, Claimant alleged that she called the Blackrock offices and was told the same thing.

Claimant alleged that on January 3, 1995 she received a call from Palmer, in response to an earlier call, and informed Palmer of what she was told about the guarantee of principal. Claimant alleged that Palmer stated that she had spoke to Blackrock and assured Claimant that she was in a trust that was guaranteed and in addition stated that the persons at Dean Witter had lied to her. Claimant further alleged that during the conversation she requested that Palmer send something in writing to assure her that her principal was guaranteed. Claimant alleged that Palmer stated she could not send anything in writing; however, she would send Claimant a prospectus. Claimant alleged that upon receiving and reading the prospectus that it did not state that principal was guaranteed. Therefore, Claimant alleged that Palmer made fraudulent statement and misrepresented the nature of the investment.

Claimant alleged that she requested and that Palmer guaranteed a reasonably good monthly income which at the time of investment was \$931.00 a month. Claimant alleged that she understood that \$931.00 was to be the on going, monthly dividend; however, her check declined from \$931.00 initially, to her November 1995 check of \$477.53 contrary to Palmer's representations that Claimant would receive a high monthly income.

Finally, Claimant alleged that she made several attempts to rectify the situation by writing to Dean Witter requesting restitution for her losses. Claimant alleged that these request were denied; therefore, she liquidated her account on November 6, 1995, and received a check in the amount of \$86,544.31.56, constituting a loss of \$31,177.56.

Respondents maintained that Claimant open her account with Dean Witter in 1989 seeking tax free investments. Respondent maintained that Palmer explained in detail that the net asset valuation would fluctuate, and what that means. Respondents maintained that Palmer also told Claimant that bond fund portfolios would be priced each business day, and that bond prices and interest rates have an inverse relationship. In addition, Respondents maintained that she told Claimant that past performance could not be used as an indication of future results.

Respondents maintained that between 1989 and 1991 Claimant chose tax free investments. However, Respondents maintained that in March of 1991, Claimant called Palmer to say she needed additional monthly income and that Palmer responded by informing Claimant she could take the monthly income from the fund in which she was already invested. Respondents maintained that Claimant wanted more income than the presented investment could provide. Respondent maintained therefore, that Palmer told Claimant that she would need to consider taxable investments, but pointed out the potential tax liabilities and costs associated with such a move. Respondents maintained that after discussing numerous options with Claimant, Palmer mailed a prospectus on the Blackrock Trust.

Respondents maintained that Palmer gave Claimant all the details she needed to make an informed decision and also informed the Claimant that the objective of the Blackrock Trust was to provide monthly income; however Palmer, never told Claimant the principal was guaranteed.

Finally, Respondents maintained that the purchase of Blackrock was appropriate for Claimant and provided the monthly income Claimant wanted. Respondents maintained that due to market conditions, over which Dean Witter had no control, the net asset value of the Blackrock Trust declined. Respondents maintained that Claimant decided to sell her investment, despite the fact that it was intended as a long term investment. Respondents maintained that value of the Trust has increase significantly since 1994, and if Claimant had held on to the investment, the Trust may return to or exceed its initial value by maturity.

RELIEF REQUESTED

Claimant requested damages in the amount of \$41,134.15 (\$31,177.56 in lost principal and \$9,956.59 in lost dividends), plus interest and costs.

Respondents requested that all claims be dismissed in their entirety with costs assessed against Claimant.

OTHER ISSUES CONSIDERED & DECIDED

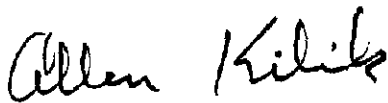
The parties have agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award may be entered. In either case, the parties have agreed to receive conformed copies of the Award while the original(s) remain on file with the NASD.

AWARD

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

1. Respondents, Dean Witter Reynold, Inc. and Darlene Palmer, are jointly and severally, and shall pay to Claimant the sum of \$6,500.00 excluding interest;
2. Claimant request for punitive damages is denied; and,
3. All parties are to bear their respective cost, including attorneys fees.

ARBITRATORS' SIGNATURES




Allen Kilik, Esq.
Public Chairperson

Edward M. Miller, Ph.D
Public Panelist

William E. O'Mara
Industry Panelist

Date of Decision: January 16, 1997

I, **Allen Kilik, Esq.**, do hereby affirm, pursuant to Article 7505 of the Civil Practice Law and Rules, that this is my decision in the above captioned matter.

A handwritten signature in cursive script, reading "Allen Kilik".

Allen Kilik, Esq.

I, **Edward M. Miller, Ph.D**, do hereby affirm pursuant to Article 7505 of the Civil Practice Law and Rules, that this is my decision in the above captioned matter.

Edward M. Miller, Ph.D

I, **William E. O'Mara**, do hereby affirm pursuant to Article 7505 of the Civil Practice Law and Rules that this is my decision in the above captioned matter.

William E. O'Mara

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Public Chairperson

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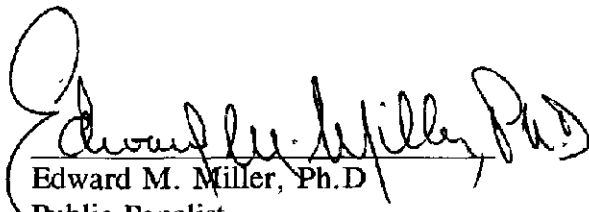
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