

AWARD

NASD Regulation, Inc.

In the Matter of the Arbitration Between

Names of Claimants

Elizabeth M. Ritchey, Jane R. Kellogg and Linda
R. Dohrmann acting as the Personal Representatives
of the Estate of Elizabeth T. Ritchey

NASD CASE NO. 96-00485

Names of Respondents

Dean Witter Reynolds Inc.
and James Zientara

REPRESENTATION

For Claimants: Neal J. Hurwitz, Esq. and James G. Simms, Esq. of the Law Offices of Neal J. Hurwitz, New York, New York.

For Respondents Dean Witter Reynolds Inc. ("Dean Witter") and James Zientara: Glenn D. Kelley, Esq. and Peter J. Aldrich, Esq. of Kelley, Aldrich & Warren, P.A., West Palm Beach, Florida. On June 28, 1999, Frederick S. Schrils, Esq., Francis M. Curran, Esq. and Michael L. Chapman, Esq. of Holland & Knight LLP, Tampa, Florida, filed a notice of appearance as co-counsel for Respondents with Peter J. Aldrich, P.A. of North Palm Beach, Florida.

CASE INFORMATION

Statement of Claim filed on February 6, 1996. Claimants' Amended Statement of Claim filed on April 28, 1997. Claimants' Submission Agreements signed on February 1, 1996 by Elizabeth M. Ritchey, Jane R. Kellogg and Linda R. Dohrmann, as Personal Representatives of the Estate of Elizabeth T. Ritchey and Successor Co-Trustees of the Elizabeth T. Ritchey Living Trust.

Respondents' Preliminary Answer and Affirmative Defenses filed on June 26, 1996. Respondents' Preliminary Answer and Affirmative Defenses to Amended Statement of Claim filed on May 17, 1997.

HEARING INFORMATION

On January 22, 1998, June 18, 1998, March 29, 1999 and July 12, 1999, pre-hearing conferences lasting one session each were conducted with the undersigned arbitrators (the "Panel"). On February 23, 1999, a pre-hearing conference lasting one session was conducted with the Chairperson of the Panel. On July 13, 14, 15 and 16, 1999, in Tampa, Florida, the

evidentiary hearing lasting nine sessions was conducted with the Panel.

CASE SUMMARY

Claimants alleged that from February 5, 1990 to the time the Statement of Claim was filed, Respondents breached fiduciary duties they owed to the Claimants and perpetuated a continuing fraud upon them in connection with investments comprised principally of limited partnerships. Claimants asserted that the Respondents intentionally delayed and failed to respond to requests and inquiries relating to the accounts of Mrs. Elizabeth T. Ritchey and the Elizabeth T. Ritchey Living Trust, concealed fraudulent conduct relating to unauthorized trading in Mrs. Ritchey's accounts, and concealed and/or misstated the true value of her investments. Claimants further asserted that the Respondents willfully and deliberately disregarded their legal and professional obligations to Mrs. Ritchey and the Ritchey family.

The Respondents denied all allegations of wrongdoing and asserted that any and all claims arising from the investment transactions in the Dean Witter accounts of Elizabeth T. Ritchey were ineligible for arbitration under Section 10304 of the NASD Code of Arbitration Procedure. Respondents maintained that they breached no duties and neither committed nor concealed any wrongdoing during the period of eligibility established by the United States District Court. Specifically, Respondents asserted that after Elizabeth T. Ritchey closed her Dean Witter accounts, Respondents owed no continuing duty to either Mrs. Ritchey or her heirs, and even if such a duty was owed, Respondents in no way breached that duty at any time. Respondents further maintained that they never concealed the value of any investment purchased by Mrs. Ritchey and that the investment transactions in her accounts were authorized and/or ratified not only by Mrs. Ritchey, but also by the numerous members of Mrs. Ritchey's investment team, all of whom (at various times) received duplicate and triplicate copies of Mrs. Ritchey's account statements and transaction confirmations.

RELIEF REQUESTED

Claimants requested compensatory damages of not less than \$500,000.00, punitive damages in an amount to be determined by the arbitrators, attorneys' fees and costs.

Respondents requested that the Claimants' claims be dismissed in their entirety, with prejudice.

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 originals remain on file with NASD Regulation, Inc.

Respondents Dean Witter and Zientara did not file with the NASD Regulation, Inc., Office of Dispute Resolution properly executed submissions to arbitration but are required to submit to arbitration pursuant to Rule 10301 of the NASD Code of Arbitration Procedure (the "Code"), and having answered the claim, appeared and testified at the hearing are bound by the determination of the Panel on all issues submitted.

At the conclusion of the presentation of Claimants' case during the evidentiary hearing, Respondents made a motion for dismissal of Claimants' claims in their entirety (the "Motion"). After hearing extensive oral argument from the parties, and after full consideration of the Motion and Claimants' opposition thereto during executive session, the Panel determined to grant the Motion for dismissal.

AWARD

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

1. Claimants' Statement of Claim is dismissed in its entirety.
2. All parties shall bear their respective attorneys' fees and costs.
3. All other claims for relief, including Claimants' request for punitive damages, are denied.

FORUM FEES

Pursuant to Rule 10332(c) of the Code, the Panel has assessed forum fees in the sum of \$13,300.00 (four pre-hearing conferences with the Panel x \$1,000.00 and one pre-hearing conference with the Chairperson x \$300.00, plus nine hearing sessions x \$1,000.00) against Respondent Dean Witter, for which NASD Regulation, Inc. shall retain the \$1,000.00 hearing session deposit previously paid by Claimants and the \$4,500.00 previously deposited by Dean Witter in partial satisfaction thereof, leaving a balance due in the amount of \$7,800.00.

OTHER FEES

Pursuant to Rule 10332(a) of the Code, the Claimants have paid to NASD Regulation, Inc. the \$250.00 claim filing fee.

Pursuant to Rule 10333 of the Code, Respondent Dean Witter has paid to NASD Regulation, Inc. the \$500.00 member surcharge.

Fees are payable to the NASD Regulation, Inc., Office of Dispute Resolution.

Concurring Arbitrators' Signatures
Name

Public/Industry

_____/s/_____
Richard W. Reeves, Esq.
Chairperson

Public

/s/
George K. Beardsley

Industry

/s/
Donald R. Ormrod, Sr.

Public

Date of Decision: August 28, 1999

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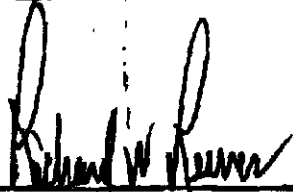
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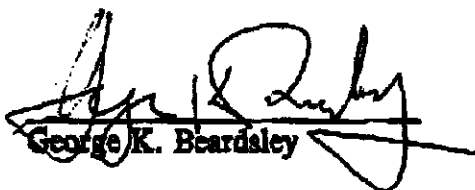
Name

Public/Industry



Public

Richard W. Reeves, Esq.
Chairperson


George K. Beardsley

Industry

Donald R. Ormrod, Sr.

Public

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RE: case # 96-00485

George K. Beardsley

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Donald R. Ormrod Sr.
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