

## AWARD

### NASD REGULATION, INC., OFFICE OF DISPUTE RESOLUTION

In the matter of the Arbitration Between

Name of Claimant

John "Jack" Cope

v.

Arbitration No.

96-02088

Name of Respondent

Dean Witter Reynolds, Inc.

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### REPRESENTATION OF PARTIES

John "Jack" Cope ("**Claimant**") was represented by Kevin M. Seibert, Esq., Diehl, Steinheimer, Riggio, Haydel & Mordaunt, Stockton, California.

Dean Witter Reynolds, Inc. ("**Respondent**") was represented by Timm A. VerDuin, Esq., Dean Witter Reynolds, Inc., San Francisco, California.

### CASE INFORMATION

Claimant's Statement of Claim was filed on or about May 13, 1996. Claimants Submission Agreement was signed on May 13, 1996.

Respondent's Statement of Answer was filed on or about July 30, 1996. The Submission Agreement for Dean Witter Reynolds, Inc. was signed on July 9, 1996.

### HEARING INFORMATION

Pre-hearing conferences were held on December 9, 1996 and April 7, 1997. Each lasted one session.

The hearing was held on:	June 3, 1997	two sessions;
	June 4, 1997	one sessions.

### CASE SUMMARY

Claimant alleges that the Respondent made misrepresentations regarding the status of Claimant's account. Claimant further alleges that he relied on the information provided by the Respondent in placing trades involving the McAfee stock and call options. Additionally, Claimant alleges that the

Respondent has failed to properly credit his account for a stock split which occurred while Claimant was owner of record of the account.

Respondent denied the allegations set forth in the Statement of Claim. Respondents specifically argued Claimant was attempting to profit from an posting error made by the Respondent. Respondent further argues that any damages the Claimant suffered were due to margin trading Claimant initiated in other stocks.

### **RELIEF REQUESTED**

Claimant requested an award in the amount of approximately \$250,000 plus punitive damages.

Respondent requested that the claims asserted against it be dismissed in their entirety and that it be awarded its costs and expenses.

### **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 NASD Regulation, Inc., Office of Dispute Resolution.

### **AWARD**

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

1. Claimant is awarded and Respondent shall pay to Claimant the sum of \$9,000.00.
2. Claimant's request for punitive damages is denied.
3. Each side shall bear their own costs and expenses.

### **FORUM FEES**

Forum fees are calculated at the rate of \$750 per hearing session and \$300 for each prehearing conference, if any. There were 3 sessions x \$750 plus 2 pre-hearing conferences x \$300 = \$2,850.00 in total forum fees. Pursuant to Rule 10332(b) of the NASD Regulation, Inc., Office of Dispute Resolution 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. Pursuant to Rule 10332(c) of the Code of Arbitration Procedure, the Respondent is assessed all forum fees.

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Total Fees	
3 Hearing Sessions @ \$750.00 =	\$2,250.00
2 Pre-Hearing Conf. @ \$300.00 =	\$ 600.00
Total	<u>\$2,850.00</u>

Pursuant to Rule 10332(c) of the Code, NASD Regulation, Inc. shall retain the non-refundable filing fee in the amount of \$200 and shall refund to Claimant the hearing session deposit in the amount of \$750.00.

Pursuant to Rule 10333 of the Code, the NASD shall retain the member surcharge fee in the amount of \$350 previously paid by Dean Witter Reynolds, Inc.

Fees are payable to the NASD, Regulation, Inc.

Dated:

\_\_\_\_\_  
Thomas C. McNally, III, Esq.  
Public Arbitrator, Presiding Chair

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Richard A. Ardoin, Esq.  
Public Arbitrator

\_\_\_\_\_  
Greg N. Tcherkoyan  
Industry Arbitrator

Date Served: June 5, 1997

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6-4-97

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Award Page 3 of 3

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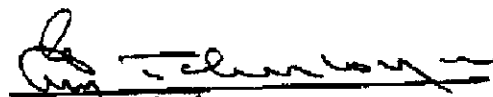
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Thomas C. McNally, III, Esq.  
Public Arbitrator, Presiding Chair

Dated:

June 4, 1997

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Richard A. Ardoin, Esq.  
Public Arbitrator

\_\_\_\_\_  
Greg N. Tcherkoyan  
Industry Arbitrator

Date Served: June 5, 1997