

97115001

NASD REGULATION AWARD

In the Matter of the Arbitration Between

Name of Claimants

Stephen and Janet Kasparian

96-02600

Name of Respondent

Dean Witter Reynolds Inc.

REPRESENTATION

Claimants Stephen and Janet Kasparian ("claimants") appeared pro se.

For Respondent Dean Witter Reynolds, Inc., ("respondent") appeared Paul G. Thomas, Esq., in-house counsel for respondent.

CASE INFORMATION

Statement of Claim was filed on: June 5, 1996.

Claimants' Submission Agreement was signed on: July 5, 1996.

Statement of Answer was filed by respondent on: October 4, 1996.

Respondent's Submission Agreement was signed on: October 4, 1996.

HEARING INFORMATION

Hearing Date/Sessions: May 15, 1997

Two Sessions

The hearings were conducted at the offices of NASD Regulation, Inc. located in Boston, Massachusetts.

CASE SUMMARY

Claimants alleged that, since 1985, Brian Barron ("Barron") handled their accounts, that they knew very little about investing and relied on his advice as a financial professional. Claimants further alleged that although, during the years, they observed many trades in their accounts, their accounts never seemed to grow in value. Claimants contended that, although Barron constantly

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assured them that the trades did not cost them any money, they were charged commissions and that, because of these hidden commissions, their money never had a chance to grow. Claimants maintained that, in 1994, they received a letter from Barron advising them to sell their bonds for a loss and take the tax write-off and that, based upon this advice, they transferred their account, sold out the positions, and invested the money in mutual funds. Claimants further maintained that Barron abused their account, misled them, lied to them about their investments, and churned their account. In addition, claimants contended that respondent was responsible for its employees and, therefore, was responsible for the mishandling of their account.

Respondent maintained that claimants were intelligent and educated and that Barron discussed his investment recommendations in detail with them. Respondent contended that claimants were aware that they were incurring commissions in their accounts because their monthly statements disclosed the commissions and other charges which they incurred and because Barron calculated and disclosed to them any applicable markup or commission before recommending an investment. Respondent also alleged that the level of activity in claimants' accounts was moderate and consistent with their objectives. Respondent further contended that claimants controlled their accounts at issue. In addition, respondent contended that claimants' accounts were profitable and that claimants did not incur an economic loss while their accounts were held with respondent.

RELIEF REQUESTED

Claimants requested actual damages in excess of \$70,000.00.

Respondent requested that all claims be dismissed in their entirety and that it be awarded its costs for this proceeding. In addition, respondent requested that, if the claims are dismissed, that the panel direct all entries on Brian Barron's CRD record relating to this matter be deleted.

OTHER ISSUES CONSIDERED & DECIDED

Respondent, in its Statement of Answer, made a Motion to Dismiss pursuant to Rule 10304 (formerly Section 15) of the NASD Code of Arbitration Procedure ("Code"). At the close of all the evidence, the panel granted respondent's Motion to Dismiss. Therefore, all claims arising on or after June 5, 1996 were dismissed.

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 the NASD.

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:

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1. After reviewing all pleadings and testimony presented at the hearing, it is the opinion of the panel that Barron acted in the best interests of the claimants at all times during the period 1988 through 1994. In addition, the panel has determined that no negative or adverse inferences should be drawn against either Barron or respondent by the filing of this claim for arbitration or the subsequent hearing on this claim. Therefore, all claims are hereby dismissed in their entirety.
 2. Each party shall bear their respective costs and attorneys' fees.
 3. All other requests are hereby denied.

FORUM FEES

Pursuant to Rule 10232(c) of the Code of Arbitration Procedure, the arbitrators have determined that NASD Regulation, Inc. shall retain the \$150.00 filing fee and have assessed the following forum fees:

2 hearing sessions x \$500.00	=	\$1,000.00
member surcharge	=	\$ 300.00

1. Claimants be and hereby are liable for the sum of \$500.00, representing one-half of the total amount of forum fees assessed. Claimant previously deposited \$500.00 with NASD Regulation and, therefore, claimant does not owe any forum fees.
2. Respondent be and hereby is liable and shall pay the sum of \$800.00, representing one-half of the total amount of forum fees assessed and the member surcharge.

Fees are payable to NASD Regulation, Inc.

775.
Paul W. Fager, Esq.
Paul W. Fager, Esq.
Chairperson-Public Arbitrator

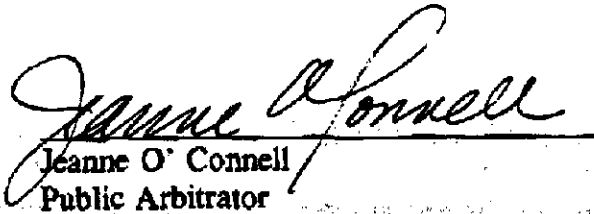
Jeanne O' Connell
Public Arbitrator

Robert C. Wyman
Industry Arbitrator

Date of Decision: October 23, 1997

Arbitrators' Signatures

Paul W. Fager, Esq.
Chairperson-Public Arbitrator


Jeanne O'Connell
Public Arbitrator

Robert C. Wyman
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