

## NASD REGULATION AWARD

NASD Regulation, Inc. Office of Dispute Resolution

In the Matter of the Arbitration Between

Name of Claimant

Albert Adley, Extr/Est. Emily Rothschild

96-03190

Name of Respondents

Dean Witter Reynolds Inc.  
Sheldon Kramer

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REPRESENTATION

For Claimant Albert Adley, Extr/Est. Emily Rothschild ("Claimant"): Albert Adley, Executor.

For Respondents Dean Witter Reynolds Inc. ("Dean Witter") and Sheldon Kramer ("Kramer"): Mihal Nirahi, Esq. of Dean Witter Reynolds Inc.

CASE INFORMATION

Statement of Claim filed on: July 25, 1996.

Amended Statement of Claim filed on May 9, 1997.

Claimant's Submission Agreement signed on: August 7, 1996.

Joint Statement of Answer filed by Respondents Dean Witter and Kramer (collectively referred to as "Respondents") on: September 23, 1996.

Answer to Amended Statement of Claim filed on March 3, 1998.

Respondent Dean Witter's Submission Agreement executed by William Peterson, First Vice President and Assistant General Counsel of Dean Witter Reynolds Inc. on: September 23, 1996.

Respondent Kramer's Submission Agreement signed on: September 17, 1996.

HEARING INFORMATION

Hearing Date/Sessions: March 9, 1998 - 2 sessions

Hearing Location: NASD Regulation Office of Dispute Resolution, New York, NY

CASE SUMMARY

Claimant alleged, among other things, misrepresentation on the part of Respondents in their handling of the account that Albert Adley opened in the name of the Estate of Emily Rothschild. Claimant alleged that the estate suffered losses as a result of investments in four collateralized mortgage obligation positions. Claimant further alleged that these losses were a direct result of the investment in high risk,

low yield securities which were unsuitable for estate accounts in liquidation.

Respondents categorically denied all allegations of wrongdoing. Respondents maintained, among other things, that they properly handled Claimant's account and that all transactions were suitable. Respondents maintained that Claimant suffered no losses but instead earned a net return on his investment.

#### **RELIEF REQUESTED**

Claimant, in his claim, requested compensatory damages in the total amount of \$3,262.85.

Respondents, in their answer, requested that Claimant's claim be denied in its entirety and that costs be awarded in favor of Respondents. In addition, Respondents requested that the panel issue an order expunging this claim from Mr. Kramer's record.

#### **OTHER ISSUES CONSIDERED & DECIDED**

Count Six of Claimant's case was dismissed at the end of Claimant's case as being premature and failing to state a claim. Counts Four and Five were dismissed at the end of Claimant's case for lack of proof.

#### **AWARD**

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

1. That Claimant's claim is denied in its entirety.
2. That all other claims for relief requested are denied in their entirety.
3. That the parties shall bear their respective costs, including attorney's fees, except as forum fees are addressed below.

#### **FORUM FEES**

Pursuant to Rule 10332(c) of the Code of Arbitration Procedure, the following Forum Fees are assessed.

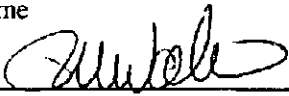
2 sessions x \$100 = \$200 minus hearing session deposit of \$100 = net \$100 due.

Dean Witter's non refundable member surcharge of \$100 was paid in full.

Forum Fees Assessed: Dean Witter is assessed forum fees in the amount of \$100.

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

Arbitrator's Signature  
Name

  
Richard W. Vallario, Esq.  
Public Arbitrator

Date of Decision: 3/17/98

I, B. Vallario, do hereby affirm, pursuant to Article 7507 of the Civil Procedure Law and Rules, that I am the individual described herein, who executed this instrument which is my Award.

Date Decision Served by NASD Regulation: 3/17/98