

N.A.S.D. REGULATION AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS REGULATION, INC.

In the Matter of the Arbitration Between

Name of Claimants

Max and Roslyn Lichtman
Max Lichtman IRA
Roslyn Lichtman IRA
Roslyn Lichtman, Custodian

96-03966

Name of Respondents

Dean Witter Reynolds Inc.
Bonnie Newman

REPRESENTATION

For claimants Max and Roslyn Lichtman ("claimants") appeared their representative Walter D'Ull, Esq. a sole practitioner located in New York, New York.

For respondents Dean Witter Reynolds, Inc. ("DWR") and Bonnie Newman ("Newman") appeared their representative and in-house counsel, Paul Thomas, Esq.

CASE INFORMATION

Statement of Claim filed: September 5, 1996.

Claimants' Submission Agreement signed on: June 27, 1996.

Joint Statement of Answer filed by respondents on: October 29, 1996.

Respondent Newman's Submission Agreement signed on: December 3, 1996.

Respondent DWR's Submission Agreement signed on: October 29, 1996.

HEARING INFORMATION

Hearing Dates/Sessions: June 5, 1996 - two sessions

The hearings were conducted at the offices of the National Association of Securities Dealers Regulation, Inc. located at 125 Broad Street, New York, New York.

CASE SUMMARY

Claimants alleged that respondent DWR employed respondent Newman and failed to properly supervise her. Claimants further alleged that respondents violated Section 10b-5 of the Securities Exchange Act of 1934 and violated other statutes and regulations governing the conduct of broker-dealers; Stock Exchange Rules; common law fraud; unauthorized trading; failure to supervise; misrepresentation; breach of fiduciary duty and negligence. Claimants also alleged that M. Lichtman approached Newman in order to obtain investment advice. Claimants contended that Newman did not ask their income status, recommended unsuitable funds, tax-exempt and charged higher than normal fees. Claimants further contended that Newman's primary concern was her commission and not the fiduciary owed to them.

Respondents maintained that claimants had their account with them for almost 10 years and never had a complaint. Respondents further maintained that during this time several hundred conversations were had with claimants and that, of course, they obtained information regarding claimant's financial situation. Respondents also maintained that claimants desired income from their investments and that they wished to have tax free vehicles. Respondents contended that she recommended MFS Intermediate Income Trust, Intercapital Insured Municipal Income Fund and Oppenheimer Strategic Income Fund and that after complete disclosure the claimants purchased shares. Respondents further contended that in 1994, the bond market experienced a dramatic decline and that Newman tried to persuade claimants not to sell their investments during the panicky sell-off. Respondents also contended that claimants disregarded the advice and sold their investments. Respondents asserted that the bond market recovered as did the value of claimants' investments and that as a result of the above, they should not be held liable.

RELIEF REQUESTED

Claimants requested \$33,261.00 in actual damages, interest, costs plus attorney's fees of one-third of the award.

Respondents requested that the claims be dismissed in their entirety and that costs of the proceeding be assessed against claimants.

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.

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. The claims of claimants Max Lichtman, Roslyn Lichtman, Max Lichtman IRA, Roslyn Lichtman IRA against Dean Witter Reynolds and Bonnie Newman be and hereby are denied in their entirety.
2. The parties shall bear their respective attorney's fees and costs.
3. All other relief requests are denied.

FORUM FEES

Pursuant to Rule 10332(c) of the Code of Arbitration Procedure, the arbitrators have determined that NASD Regulation shall retain the \$100.00 non-refundable filing fee previously deposited by claimants and have assessed the following forum fees:

two sessions x \$400.00	= \$800.00
minus claimants' \$400.00 deposit	= <u>\$400.00</u>
total outstanding	= \$400.00

Claimants be and hereby are jointly and severally liable for the sum of \$400.00 representing one-half of the total amount of forum fees assessed. Claimants previously deposited \$400.00 with NASD Regulation. Therefore, nothing is owed to NASD Regulation by the claimants.

Respondent Dean Witter Reynolds be and hereby is liable for the sum of \$400.00 representing one-half of the total amount of forum fees assessed. Therefore, respondents shall pay \$400.00 to NASD Regulation, Inc. in satisfaction of outstanding forum fees.

ARBITRATORS' SIGNATURES

I, Stephen H. Busch, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein, and who executed this instrument which is my award.

A handwritten signature in black ink, appearing to read 'Stephen H. Busch', is written over a horizontal line.

Stephen H. Busch
Public Chairperson

I, Myron Kove, Esq., do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein, and who executed this instrument which is my award.

Myron Kove, Esq.
Public Panelist

I, James R. Dressel, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein, and who executed this instrument which is my award.

James R. Dressel
Industry Panelist


Date of Decision: August 5, 1997

ARBITRATORS' SIGNATURES

I, Stephen H. Busch, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein, and who executed this instrument which is my award.

Stephen H. Busch
Public Chairperson

I, Myron Kove, Esq., do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein, and who executed this instrument which is my award.



Myron Kove, Esq.
Public Panelist

I, James R. Dressel, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein, and who executed this instrument which is my award.

James R. Dressel
Industry Panelist

Date of Decision: August 5, 1997

ARBITRATORS' SIGNATURES

I, Stephen H. Busch, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein, and who executed this instrument which is my award.

Stephen H. Busch
Public Chairperson

I, Myron Kove, Esq., do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein, and who executed this instrument which is my award.

Myron Kove, Esq.
Public Panelist

I, James R. Dressel, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein, and who executed this instrument which is my award.



James R. Dressel
Industry Panelist

Date of Decision: August 5, 1997

REPORT OF ARBITRATORS

The panel finds no fault or wrongdoing on the part of respondent Bonnie Newman in her actions with respect to claimants' account.