

1998

980304

**AWARD**

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

In the matter of the Arbitration Between

**Name of Claimant(s)**

E. John and Ruth Gillis

Arbitration  
No. #96-04528

**Name of Respondent(s)**

Dean Witter Reynolds, Inc.  
Rick DeFreez

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**REPRESENTATION**

For Claimants: Timothy A. McKeever, Esq.,  
Faulkner, Banfield, Doogan & Holmes,  
Anchorage, Alaska

Tim  
Faulk  
Anch

For Respondents: Timm A. VerDuin, Esq.  
Dean Witter Reynolds, Inc.  
San Francisco, California

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Dean  
San F

**CASE INFORMATION**

Statement of Claim filed: October 11, 1996

Claimants' Submission Agreement signed: September 16, 1996

Joint Statement of Answer filed: February 17, 1997

Respondents' Submission Agreements signed:

Dean Witter Reynolds: January 21, 1997  
Rick DeFreez: January 29, 1997

### HEARING INFORMATION

Pre-hearing telephone conferences were held as follows:

August 20, 1997 - 1 session  
October 1, 1997 - 1 session

The evidentiary hearing was held in Anchorage, Alaska, as follows:

December 4, 1997 - 3 sessions  
December 5, 1997 - 3 sessions

### CASE SUMMARY

Claimant alleged lack of suitability, churning, unauthorized trading, and failure to supervise with respect to their investments in common stocks. Claimants alleged that the investment strategy employed by their broker changed dramatically after a few years from conservative investments to speculative investments made on margin.

Respondents denied the allegations of the claim, and stated that Claimants began investing in growth-oriented common stocks in response to the decline in the value of their account caused by Claimants' large withdrawals. Respondents asserted that the risks of investing in growth-oriented stocks were fully explained to Claimants. Respondents stated that Claimants had first-hand experience of the risks of investing in common stocks during the 1987 market crash. Respondents further stated that the lack of success of Claimants' investment strategy did not mean it was induced by fraud or was otherwise improper.

### RELIEF REQUESTED

Claimants requested damages of approximately \$83,000 including interest, plus costs of arbitration and attorney's fees.

Respondents requested dismissal of all claims.

### OTHER ISSUES CONSIDERED AND DECIDED

The parties have agreed to receive conformed, counterpart copies of the Award while the originals remain on file with the NASDR, Inc.

RECEIVED

DEC 29 1997

BURKE BAUERMEISTER &  
BRELSFORD, P.L.L.C.

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### AWARD

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## **FORUM FEES**

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## ARBITRATORS

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W. J. Allen.

**Alfred P. Knoll**

**Allan B. Currie**

Date Served: 01/13/98

Concurring Arbitrators' Signatures

\_\_\_\_\_  
Alfred P. Knoll

  
\_\_\_\_\_  
Gregg B. Brelsford

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Allan B. Currie

Date of Decision:

Date Served: 01/13/98

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