

AWARD
NASD Regulation, Inc.

In the Matter of the Arbitration Between

Name of Claimants

Thomas R. Scott as Trustee for the
Thomas R. Scott Trust and
Bonnie K. Scott, as Trustee for the
Bonnie K. Scott Trust

vs.

98-00312

Name of Respondents

Dean Witter Reynolds Inc.
William Schramm

REPRESENTATION

Claimants Thomas R. Scott, as Trustee for the Thomas R. Scott Trust and Bonnie K. Scott, as Trustee for the Bonnie K. Scott Trust, ("Claimants") were represented by Lloyd G. Parry, Esq., Davis, Riter, Parry & Hartman, Philadelphia, Pennsylvania.

Respondents Dean Witter Reynolds ("DWR") and William Schramm ("Schramm") were represented by Debra A. Roth, Esq., Dean Witter Reynolds, Inc., New York, New York.

CASE INFORMATION

Claimants' Statement of Claim was filed January 26, 1998.
Claimants' Uniform Submission Agreements were signed February 23, 1998.

The Joint Statement of Answer of Respondents DWR and Schramm (collectively "Respondents") was filed June 11, 1998.

DWR's Uniform Submission Agreement was signed April 28, 1998.

Schramm's Uniform Submission Agreement was signed April 13, 1998.

HEARING INFORMATION

Prehearing Date/Sessions: August 21, 1998/one session

Hearing Dates/Sessions: January 27, 1999/two sessions
January 28, 1999/one session

Hearing Location: NASD District 9 Office
Philadelphia, Pennsylvania

CASE SUMMARY

Claimants alleged that for many years, they maintained accounts through DWR and at the relevant times, their holdings through the DWR account included securities managed by Harris, Bretall, Sullivan and Smiths ("HBSS"). Claimants further alleged that in May 1996, they established two trusts and pursuant to this estate plan, their advisors provided specific language to be used for purposes of funding the trusts by means of retitling a portion of the securities managed by HBSS. Claimants contended that by telephone, Thomas Scott repeated to Schramm, of DWR, the appropriate retitling language.

Claimants alleged that Thomas Scott also directed Schramm to similarly retitle certain of the HBSS managed securities for Bonnie Scott's trust. Claimants further alleged that instead of following instructions and retitling the HBSS-managed securities, DWR sold the securities generating substantial capital gains. Claimants alleged that the sale of these holdings was unauthorized and contrary to the instructions provided to DWR and caused the Scott Trusts to incur a substantial tax liability and related damages and costs.

Respondents denied any allegations of wrong-doing as asserted by Claimants. Respondents maintained that in approximately 1992, Claimants placed their DWR joint account under the Management of HBSS, an investment advisory firm. Respondents further maintained that during 1996, Thomas Scott began complaining to Schramm about what Scott considered to be the underperformance of the HBSS account. Respondents contended that simultaneously with the discussions about the account, Claimants were working on an estate plan. Respondents further contended that sometime during May, or early June, 1996, Thomas Scott spoke to Schramm and asked him to set up two trust accounts for Thomas Scott and Bonnie Scott, and gave him the language to be used in opening the accounts. Respondents maintained that after the joint account was 80% liquidated, the proceeds were placed in the trust accounts to be reinvested later.

Respondents maintained that Claimants' contention that the trades made on June 21 were unauthorized is belied by the fact that Claimants received more than 30 confirmations without complaint, as well as monthly statements; that on July 31 -- more than a month after the sales were made -- the Scotts discussed with Schramm how the moneys were to be reinvested; and that after this meeting the Scotts received confirmations and monthly statements which showed the reinvestment. Indeed, according to Respondents, the record reflects that Schramm heard nothing from Claimants regarding this matter until March 12, 1997, when Claimants complained to Schramm about the capital gains taxes they would have to pay as a result of the liquidation of the stocks from the HBSS portfolio.

RELIEF REQUESTED

Claimants requested damages in the amount of \$53,097.00 plus attorney's fees and the costs of this arbitration.

Respondents requested that the Statement of Claim be dismissed.

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 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:

1. That DWR and Schramm are jointly and severally liable to and shall pay to Claimants, as Trustees for the Thomas Scott and Bonnie Scott Trusts, \$30,000.00 inclusive; and
2. That each party shall bear their own costs and expenses, including attorney's fees, with the exception of forum fees as specified below; and
3. That any and all relief not specifically addressed herein is denied.

OTHER COSTS

Pursuant to Rule 10333 of the Code of Arbitration Procedure ("Code"), Respondent DWR is assessed a member surcharge of \$1,000.00, a prehearing processing fee of \$600.00, as well as a hearing processing fee of \$1,500.00, of which the surcharge and the prehearing processing fee have been paid.

FORUM FEES

Pursuant to Rule 10332 of the Code, a hearing session is defined as any meeting between the arbitrators and the parties, including a prehearing conference, which lasts four (4) hours or less. Therefore, the following Forum Fees are assessed:

1 prehearing session x \$500.00 = \$ 500.00
3 Hearing Sessions x \$500.00 = \$1,500.00
Total Forum Fees = \$2,000.00

Forum Fees are assessed to Claimants in the amount of \$1,000.00 and to Respondents, jointly and severally, in the amount of \$1,000.00.

Claimants shall receive credit for the \$500.00 hearing session deposit previously submitted to the NASD Regulation, leaving a net forum fees assessment due from Claimants in the amount of \$500.00.

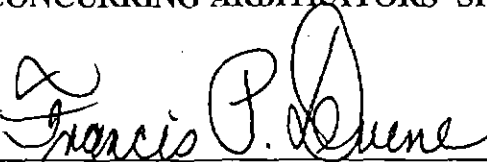
Respondents have a net forum fees assessment due of \$1000.00.

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

DATE

2/25/99.

CONCURRING ARBITRATORS' SIGNATURES



Francis P. Devine, III, Chairman
Public Arbitrator

G. Rick O'Shea
Public Arbitrator

Bruce A. Sauerwine
Industry Arbitrator

Date Decision Served by NASD Regulation:

March 1, 1999

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DATE

CONCURRING ARBITRATORS' SIGNATURES

2-17-99

Francis P. Devine, III, Chairman
Public Arbitrator



G. Rick O'Shea
Public Arbitrator

Bruce A. Sauerwine
Industry Arbitrator

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CONCURRING ARBITRATORS' SIGNATURES

Francis P. Devine, III, Chairman
Public Arbitrator

G. Rick O'Shea
Public Arbitrator

2/26/99

Bruce A. Sauerwine

Bruce A. Sauerwine
Industry Arbitrator

Date Decision Served by NASD Regulation: March 1, 1999