

Award
NASD Dispute Resolution, Inc.

In the Matter of the Arbitration Between:

Kenneth Wolcott Family Trust dated 12/7/89, Claimant v. Dean Witter Reynolds Inc. and R. Thomas Caffery, II, Respondents

Case Number: 99-04311

Hearing Site: San Diego, California

REPRESENTATION OF PARTIES

For Claimant:

Donald B. McNelley, Esq.
Indian Wells, California

For Respondents:

Timm A. VerDuin, Esq.
Morgan Stanley Dean Witter
San Francisco, California

CASE INFORMATION

Statement of Claim filed: September 16, 1999

Claimant's Uniform Submission Agreement signed: August 16, 1999

Joint Statement of Answer filed by Respondents: December 3, 1999

Respondent Dean Witter Reynolds Inc.'s Uniform Submission Agreement signed: November 22, 1999

Respondent R. Thomas Caffery, II's Uniform Submission Agreement signed: November 6, 1999

CASE SUMMARY

Claimant alleged breach of fiduciary duty, negligence, elder abuse, failure to supervise, and unsuitability. Claimant's allegations arose out of the purchase and/or sale of numerous and various stocks and bonds.

Respondents denied the allegations of wrongdoing set forth in the Claimant's Statement of Claim.

RELIEF REQUESTED

Claimant requested compensatory damages of \$147,589.00, treble damages for elder abuse, punitive damages, interest in the amount of \$44,276.00, costs, and attorney's fees.

Respondents requested dismissal of Claimant's Statement of Claim in its entirety.

OTHER ISSUES CONSIDERED AND DECIDED

The parties agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award may be entered.

AWARD

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

- 1) Respondent Dean Witter Reynolds, Inc. is liable to and shall pay Claimant \$46,000.00.
- 2) Respondent R. Thomas Caffery, II is liable to and shall pay Claimant \$31,000.00.
- 3) Each party shall bear its own costs, including attorney's fees.
- 4) All other relief not expressly granted is denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Dispute Resolution, Inc. received or will collect the non-refundable filing fees for each claim as follows:

Initial claim filing fee	= \$ 300.00
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Member Fees

Member fees are assessed to each member firm that is either a party in the matter or an employer of a respondent associated person at the time of the events which gave rise to the dispute, claim, or controversy. Accordingly, the member firm Dean Witter Reynolds Inc. is a party and the following fees are assessed:

Member Surcharge	= \$ 1,500.00
Pre-Hearing Process Fee	= \$ 600.00
<u>Hearing Process Fee</u>	<u>= \$ 2,500.00</u>
Total Member Fees	= \$ 4,600.00

Adjournment Fees

The following adjournment fees are assessed:

Hearing Dates: November 1-November 3, 2000
Requested by: Dean Witter Reynolds Inc.
Fee: \$1,125.00, waived by Panel = \$ 0

Forum Fees and Assessments

The Arbitrator/Panel assessed a forum fee for each pre-hearing conference or hearing session conducted. A pre-hearing conference and hearing session is any meeting between the parties and the Chair/Panel. The following fees are assessed:

(1) Pre-hearing conference session(s) with the Panel @ \$1,125.00/session = \$ 1,125.00
Pre-hearing conference: May 10, 2000 1 session

(4) Hearing sessions @ \$1,125.00/session = \$ 4,500.00
Hearings: February 28, 2001 2 sessions
March 1, 2001 2 sessions

Total Forum Fees = \$ 5,625.00

1. The Panel assessed \$ 1,875.00 of the forum fees to Claimant.
2. The Panel assessed \$ 1,875.00 of the forum fees to Respondent Dean Witter Reynolds Inc.
3. The Panel assessed \$ 1,875.00 of the forum fees to Respondent R. Thomas Caffery, II.

Fee Summary

1. Claimant Kenneth Wolcott Family Trust is charged with the following fees and costs:

Initial Filing Fee	= \$ 300.00
<u>Forum Fees</u>	= \$ 1,875.00
<u>Total Fees</u>	= \$ 2,175.00
<u>Less Payments</u>	= \$ (1,425.00)
Balance Due NASD Dispute Resolution, Inc.	= \$ 750.00

2. Respondent R. Thomas Caffery, II is charged with the following fees and costs:

<u>Forum Fee</u>	= \$ 1,875.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 1,875.00

NASD Dispute Resolution, Inc.

Arbitration No. 99-04311

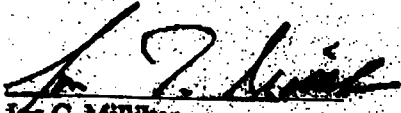
Award Page 4 of 5

3. Respondent Dean Witter Reynolds Inc. is charged with the following fees and costs:

Member Fees	= \$ 4,600.00
Adjournment Fee - waived by Panel	= \$ 0
<u>Forum Fees</u>	<u>= \$ 1,875.00</u>
Total Fees	= \$ 6,475.00
<u>Less Payments</u>	<u>= \$ (4,600.00)</u>
Balance Due NASD Dispute Resolution, Inc.	= \$ 1,875.00

All balances are payable to NASD Dispute Resolution, Inc. and are due upon receipt of the Award pursuant to Rule 10330(g) of the Code.

Concurring Arbitrators' Signatures



Jon C. Milliken
Chair, Public Arbitrator

3/5/2001

Signature Date

William David Wells
Public Arbitrator

Signature Date

Emil J. Rothenberg
Industry/Non-Public Arbitrator

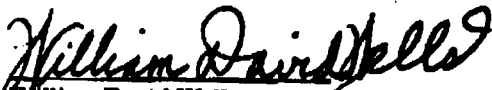
Signature Date

March 6, 2001
Date of Service

Concurring Arbitrators' Signatures

Jon C. Milliken
Chair, Public Arbitrator

Signature Date


William David Wells
Public Arbitrator


Signature Date

Emil J. Rothenberg
Industry/Non-Public Arbitrator

Signature Date

Date of Service

NASD Dispute Resolution, Inc.
Arbitration No. 99-04311
Award Page 5 of 5

Concurring Arbitrators' Signatures

Jon C. Milliken
Chair, Public Arbitrator

Signature Date

William David Wells
Public Arbitrator

Signature Date


Emil J. Rothenberg
Industry/Non-Public Arbitrator

Mar. 5, 2001
Signature Date

Date of Service