

Stipulated Award
NASD Dispute Resolution, Inc.

In the Matter of the Arbitration Between

Names of Claimants

Joel D. Kenwood, individually and as
Trustee of the Joel D. Kenwood Revocable Trust

Case No. 99-04876

Names of Respondents

Dean Witter Reynolds, Inc.
Stuart Bruce Gerber

REPRESENTATION OF PARTIES

For Joel D. Kenwood Revocable Trust ("Kenwood Trust") and Joel D. Kenwood, individually ("Kenwood"), hereinafter collectively referred to as "Claimants": Joel D. Kenwood.

For Dean Witter Reynolds, Inc. ("Dean Witter") and Stuart Bruce Gerber ("Gerber"), hereinafter collectively referred to as "Respondents": Allison B. Doneghey, Vice President, Senior Attorney, Law Department, Morgan Stanley Dean Witter, Sarasota, Florida.

CASE INFORMATION

Statement of Claim filed on or about: October 29, 1999.

Claimants signed the Uniform Submission Agreement: October 28, 1999.

Statement of Answer filed by Respondents on or about: January 4, 2000.

Respondents Dean Witter and Gerber did not file executed Uniform Submission Agreements.

CASE SUMMARY

Claimants asserted the following: Respondent Gerber advised Claimants to liquidate their stock positions at Fidelity Investments and to reinvest the proceeds with Respondents. Respondent Gerber purchased stocks known as "CNET" and Viatel ("VYTL") in Claimants' account without Claimants' authorization. Respondent Gerber thereafter refused to sell the Viatel stock when instructed to do so by Claimant Kenwood. Respondent Gerber's purchase of the CNET stock put Claimants' account into a margin debit position. Respondent Gerber made false representations to Claimants which were made willfully, wantonly, recklessly, maliciously and with conscious disregard and indifference. Respondents violated Florida Statutes Sections 517.301 and 518; breached their fiduciary duty to Claimants; were negligent in breaching their duty to exercise ordinary care; and breached their contract with

Claimants.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted the following defenses: Claimants were fully advised of the relative risks inherent in their investments and knowingly chose to assume those risks; all transactions were thoroughly discussed with Claimant Kenwood, were authorized and effectuated with Claimants' full knowledge and consent; Claimants waived any objections; Claimants ratified and approved all transactions; no misrepresentations or omissions of material facts were ever made by Respondents; Respondents had no intent to defraud Claimants and did not act with any reckless disregard of the financial consequences to Claimants; extraordinary market conditions and events may have existed to cause losses to Claimants; Claimants have failed to state any valid claim upon which relief can be granted; Claimants are barred based upon their own negligence, contributory negligence or comparative negligence; and, Claimants failed to mitigate any damages which may have been incurred.

RELIEF REQUESTED

Claimants requested compensatory damages of \$34,433.27, punitive damages of \$104,000.00, interest, attorneys' fees, and costs and expenses incurred in this proceeding.

Respondents requested that all claims be dismissed in their entirety and that all references to this matter be expunged from the NASD Central Registration Depository ("CRD") record of Respondent Gerber.

OTHER ISSUES CONSIDERED AND DECIDED

Respondents did not file with NASD Dispute Resolution, Inc. properly executed submissions to arbitration but are required to submit to arbitration pursuant to the NASD Code of Arbitration Procedure (the "Code") and, having answered the claim, are bound by the determination of the Panel on all issues submitted.

On or about June 28, 2000, Claimants informed NASD Dispute Resolution, Inc. that the matter had been settled. Thereafter, on July 27, 2000, the parties filed a Stipulation requesting an order of dismissal of Respondents and expungement of any reference to this arbitration from Respondent Gerber's CRD record.

AWARD

After considering the pleadings and the Stipulation submitted by the parties, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

All claims against Respondents Dean Witter and Gerber are dismissed.

The Panel recommends the expungement of all references to the above-captioned arbitration

proceeding from Respondent Stuart B. Gerber's CRD record with the understanding that pursuant to NASD Notice to Members 99-09, Respondent Gerber must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

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

Initial claim filing fee	= \$300.00
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Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm that employed the associated person at the time of the events giving rise to the dispute. In this matter, the member firm is a party.

Member surcharge	= \$1,500.00
Pre-hearing process fee	= \$ 600.00
Hearing process fee	= \$2,500.00

Adjournment Fees

No adjournments were requested during these proceedings.

Forum Fees and Assessments

The Panel assesses forum fees for each hearing session conducted. A hearing session is any meeting between the parties and the arbitrators, including a pre-hearing conference with the arbitrators, that lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) Pre-hearing session with Panel x \$1,125.00	= \$1,125.00
Pre-hearing conference: May 12, 2000	1 session

Total Forum Fees	= \$1,125.00
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The Panel has assessed \$562.50 of the forum fees to Claimant Kenwood Trust.

The Panel has assessed \$562.50 of the forum fees jointly and severally to Respondents Dean Witter and Gerber.

Administrative Costs

Administrative costs are expenses incurred due to a request by a party for special services including, but not limited to, additional copies of arbitrator awards beyond those provided without charge, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

No administrative costs were incurred during these proceedings.

Fee Summary

Claimant Kenwood Trust be and hereby is solely liable for:

Initial Filing Fee	= \$300.00
Forum Fees	= \$562.50
Total Fees	= \$862.50
Less payments	= <u>\$862.50</u>
Balance Due NASD Dispute Resolution, Inc.	= \$ 0.00

Respondent Dean Witter be and hereby is solely liable for:

Member Fees	= \$4,600.00
Total Fees	= \$4,600.00
Less payments	= <u>\$4,600.00</u>
Balance Due NASD Dispute Resolution, Inc.	= \$ 0.00

Respondents Dean Witter and Gerber be and hereby are jointly and severally liable for:

Forum Fees	= \$562.50
Total Fees	= \$562.50
Less payments	= <u>\$562.50</u>
Balance Due NASD Dispute Resolution, Inc.	= \$ 0.00

All balances are payable to NASD Dispute Resolution, Inc. and are due immediately upon receipt of the Award by the parties.

Concurring Arbitrators' Signatures

_____/s/_____
Eli Breger
Public Arbitrator, Presiding Chair

Signature Date

_____/s/_____
Ira Leslie Kahn
Public Arbitrator

Signature Date

/s/

Michael J. Schunk
Industry Arbitrator

Signature Date

March 7, 2001

Date of Service (For NASD-DR office use only)

No administrative costs were incurred during these proceedings.

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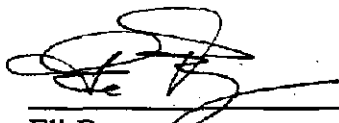
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Eli Breger
Public Arbitrator, Presiding Chair

2/7/01
Signature Date

Ira Leslie Kahn
Public Arbitrator

Signature Date

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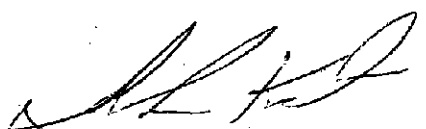
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Eli Breger
Public Arbitrator, Presiding Chair

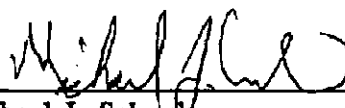
Signature Date



Ira Leslie Kahn
Public Arbitrator



Signature Date



Michael J. Schunk
Industry Arbitrator

02-13-01
Signature Date

Date of Service (For NASD-DR office use only)