

Stipulated Award
NASD Dispute Resolution, Inc.

In the Matter of the Arbitration Between:

Frank P. Lyons, (Claimant) v. Morgan Stanley Dean Witter, Marc Terris and Tim O'Brien, (Respondents)

Case Number: 00-00839

Hearing Site: Chicago, Illinois

REPRESENTATION OF PARTIES

Claimant Frank P. Lyons ("Lyons"): James R. Carter, Esq., Carter Law Offices, Peoria, Illinois.

Respondents Morgan Stanley Dean Witter ("Morgan Stanley"), Marc Terris ("Terris") and Tim O'Brien ("O'Brien"), hereinafter collectively referred to as "Respondents": Christopher M. Burky, Esq., Neal, Gerber & Eisenberg, Chicago, Illinois

CASE INFORMATION

Statement of Claim filed on or about: February 25, 2000

Claimant Lyons signed the Uniform Submission Agreement: February 18, 2000

Statement of Answer filed by Respondent on or about: April 25, 2000

Respondent signed the Uniform Submission Agreement: April 18, 2000

CASE SUMMARY

Claimant Frank P. Lyons asserted the following causes of action: Churning and Unauthorized Trades, Negligent Supervision, Violation of NYSE Rule 405, Violation of NASD Rules of Fair Practice, Article III, Section 2, Unsuitability, and Failure to Exercise Due Care

The causes of action relate to unspecified technology and internet stocks.

Unless specifically admitted in its Answer, Respondents Morgan Stanley Dean Witter, Marc Terris and Tim O'Brien denied the allegations made in the Statement of Claim and asserted the following defenses: Assumption of Risk; Failure to Mitigate Damages, Claimant Negligence, Ratification, Waiver, Estoppel, and Laches.

RELIEF REQUESTED

Claimant Frank P. Lyons requested:

Compensatory Damages	\$165,000.00 and offset of claims by Respondents
Punitive Damages	no specified amount
Attorneys' Fees	no specified amount
Other Costs	no specified amount

Respondent Morgan Stanley Dean Witter, Marc Terris and Tim O'Brien requested:
Other Monetary/Non-Monetary Relief if any: dismissal of claim

OTHER ISSUES CONSIDERED AND DECIDED

The NASD received notice that Claimant Frank Lyons and Respondents Marc Terris and Tim O'Brien reached a final settlement agreement on August 24, 2001. Consequently, Claimant Frank Lyons dismissed his claims as to Respondents Marc Terris and Tim O'Brien with prejudice.

The NASD received notice that Claimant Frank Lyons and Respondent Morgan Stanley Dean Witter reached a final settlement agreement on August 27, 2001. Consequently, Claimant Frank Lyons dismissed his claims as to Respondent Morgan Stanley Dean Witter with prejudice.

AWARD

After considering the pleadings and the joint request for expungement of the individual respondents' records the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. The panel recommends the expungement of all reference to the above captioned arbitration from Respondent Timothy J. O'Brien and Respondent Marc J. Terris' registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 99-09, Respondent Timothy J. O'Brien and Respondent Marc J. Terris must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.
2. Any and all relief not addressed herein is denied and dismissed with prejudice.

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
<u>Hearing process fee</u>	<u>= \$2,500.00</u>
Total Member Fees	= \$4,600.00

Adjournment Fees

Adjournments requested during these proceedings:

Respondents: June 26, 2001 and June 27, 2001	= \$ 1,125.00
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Forum Fees and Assessments

The panel has the authority to assess 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 a single arbitrator x \$450.00	= \$ 450.00
Pre-hearing conferences: June 01, 2001	1 session
Two (2) Pre-hearing sessions with Panel x \$1,125.00	= \$2,250.00
Pre-hearing conferences: December 08, 2001	1 session
June 13, 2001	1 session
Total Forum Fees	= \$2,700.00

1. The panel has assessed \$1,350.00 of the forum fees to Claimant Lyons
2. The panel has assessed \$1,350.00 of the forum fees jointly and severally to Respondents Morgan Stanley, O'Brien, and Terris.

Fee Summary

1. Claimant Frank P. Lyons solely liable for:

Initial Filing Fee	= \$ 300.00
Forum Fees	= \$ 1,350.00
Total Fees	= \$ 1,650.00
Less payments	= \$ 1,425.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 220.00

2. Respondent Morgan Stanley Dean Witter is solely liable for:

Member Fees	= \$ 4,600.00
Total Fees	= \$ 4,600.00
Less payments	= \$ 2,100.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 1,500.00

3. Respondents Morgan Stanley Dean Witter, Marc Terris and Tim O'Brien are jointly and severally liable for:

Forum Fees	= \$1,350.00
Adjournment Fee	= \$1,125.00
Total Fees	= \$2,475.00
Less payments	= \$1,125.00
Balance Due NASD Dispute Resolution, Inc.	= \$1,350.00

All balances are due to NASD Dispute Resolution, Inc.

ARBITRATION PANEL

Ellen J. Alexander, Esq.	-	Public Arbitrator, Presiding Chair
Robert W. Edler, Esq.	-	Public Arbitrator
Daniel J. Weinberger, Esq.	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

/s/ Ellen J. Alexander

08/31/01

Ellen J. Alexander, Esq.
Public Arbitrator, Presiding Chair

Signature Date

/s/ Robert W. Edler

08/30/01

Robert W. Edler, Esq.
Public Arbitrator

Signature Date

/s/ Daniel J. Weinberger

08/30/01

Daniel J. Weinberger, Esq.
Non-Public Arbitrator

Signature Date

Date of Service (For NASD-Dispute Resolution office use only)

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ARBITRATION PANEL

Ellen J. Alexander, Esq.	-	Public Arbitrator, Presiding Chair
Robert W. Edler, Esq.	-	Public Arbitrator
Daniel J. Weinberger, Esq.	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

Ellen J. Alexander
Ellen J. Alexander, Esq.
Public Arbitrator, Presiding Chair

August 31, 2001
Signature Date

Robert W. Edler, Esq.
Public Arbitrator

Signature Date

Daniel J. Weinberger, Esq.
Non-Public Arbitrator

Signature Date

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Ellen J. Alexander, Esq.	-	Public Arbitrator, Presiding Chair
Robert W. Edler, Esq.	-	Public Arbitrator
Daniel J. Weinberger, Esq.	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

Ellen J. Alexander, Esq.
Public Arbitrator, Presiding Chair

Signature Date



Robert W. Edler, Esq.
Public Arbitrator

8-30-01

Signature Date

Daniel J. Weinberger, Esq.
Non-Public Arbitrator

Signature Date

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ARBITRATION PANEL

Ellen J. Alexander, Esq.	-	Public Arbitrator, Presiding Chair
Robert W. Edler, Esq.	-	Public Arbitrator
Daniel J. Weinberger, Esq.	-	Non-Public Arbitrator

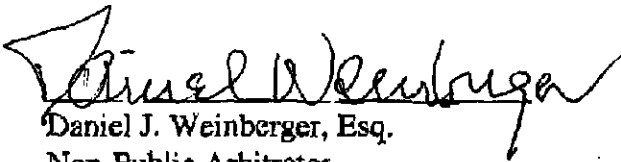
Conciling Arbitrators' Signatures

Ellen J. Alexander, Esq.
Public Arbitrator, Presiding Chair

Signature Date

Robert W. Edler, Esq.
Public Arbitrator

Signature Date


Daniel J. Weinberger, Esq.
Non-Public Arbitrator

8-31-01
Signature Date

Date of Service (For NASD-Dispute Resolution office use only)