

Award
NASD Dispute Resolution, Inc.

In the Matter of the Arbitration Between:

Irene M. Erwin, IRA, Claimant v. Morgan Stanley Dean Witter and Anthony Ray, Respondents

Case Number: 00-03601

Hearing Site: Los Angeles, California

REPRESENTATION OF PARTIES

For Claimant:

Rick Erwin
Non Attorney Representative
Nipomo, California

For Respondents:

Anne Tennant Cooney, Esq.
Morgan Stanley Dean Witter
San Francisco, California

CASE INFORMATION

Statement of Claim filed: August 14, 2000

Claimant's Uniform Submission Agreement signed: August 14, 2000

Joint Statement of Answer filed by Respondents Morgan Stanley Dean Witter and Anthony Ray:
October 16, 2000

Respondent Morgan Stanley Dean Witter's Uniform Submission Agreement signed: September
11, 2000

Respondent Anthony Ray's Uniform Submission Agreement signed: September 1, 2000

CASE SUMMARY

Claimant alleged breach of fiduciary duty, failure to disclose, misrepresentation, and suitability.
The dispute involved the purchase and/or sale of various bonds in Claimant's IRA account.

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

RELIEF REQUESTED

Claimant requested \$30,000.00 in compensatory damages or rescission of the transactions at issue.

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

OTHER ISSUES CONSIDERED AND DECIDED

The parties agreed that a handwritten, signed Award may be entered.

FINDINGS AND CONCLUSIONS

Since none of the 10 laddered corporate notes at the heart of this claim (Claimant's Exhibit #1) has been sold, the Irene M. Erwin IRA has not realized actual loss related thereto. No compensatory damages award is made.

In selling the Irene M. Irene IRA a portfolio of corporate notes half of which were below investment grade and which the client may have thought were the same as corporate bonds, respondent Anthony Ray failed to emphasize the less risky solutions available for generating the desired \$20,000 income from an IRA account valued at over \$360,000. His actions in this incident as a Morgan Stanley Dean Witter Financial Advisor are somewhat questionable.

Supervision at the Santa Maria, California office of Morgan Stanley Dean Witter did not act to change these actions by Anthony Ray.

AWARD

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

- 1) Claimant's claims are denied in their entirety.
- 2) Respondents Morgan Stanley Dean Witter and Anthony Ray are jointly and severally liable to and shall pay Claimant \$150.00 for reimbursement of arbitration filing fee.
- 3) Except as noted above, the parties shall bear their respective costs, including attorney's fees.
- 4) All other relief requested and 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	= \$ 150.00
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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 Morgan Stanley Dean Witter is a party and the following fees are assessed:

Member Surcharge	= \$ 600.00
Pre-Hearing Process Fee	= \$ 600.00
<u>Hearing Process Fee</u>	= \$ 1,000.00
Total Member Fees	= \$ 2,200.00

Adjournment Fees

The following adjournment fees are assessed:

Hearing Dates, July 10, 2001 – July 11, 2001	
adjournment requested by Respondent Morgan Stanley	
Dean Witter	= \$ 0.00
Fee waived by Arbitrator	

Forum Fees and Assessments

The Arbitrator 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 Arbitrator. The following fees are assessed:

2 Pre-hearing conference sessions with a single arbitrator @ \$ 450.00/session	= \$ 900.00
Pre-hearing conferences: March 6, 2001 1 session	
June 29, 2001 1 session	
2 Hearing sessions @ \$ 450.00/session	= \$ 900.00
Hearing: August 13, 2001 2 sessions	
Total Forum Fees	= \$ 1,800.00

The Arbitrator assessed \$ 1,800.00 of the forum fees jointly and severally to Respondents Morgan Stanley Dean Witter and Anthony Ray.

Fee Summary

1. Claimant Irene M. Erwin, IRA is charged with the following fees and costs:

Initial Filing Fee	= \$ 150.00
<u>Less payments</u>	<u>= \$ (600.00)</u>
Refund Due Claimant	= \$ (450.00)

2. Respondent Morgan Stanley Dean Witter is charged with the following fees and costs:

Member Fees	= \$ 2,200.00
<u>Less payments</u>	<u>= \$(2,200.00)</u>
Balance Due NASD Dispute Resolution, Inc.	= \$ 0.00

3. Respondents Morgan Stanley Dean Witter and Anthony Ray are charged jointly and severally with the following fees and costs:

<u>Forum Fees</u>	<u>= \$ 1,800.00</u>
Balance Due NASD Dispute Resolution, Inc.	= \$ 1,800.00

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


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ARBITRATOR

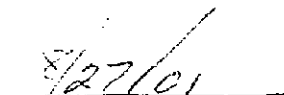
Richard S. Mannheimer

Public Arbitrator, Presiding Chair

Arbitrator's Signature


Richard S. Mannheimer
Chair, Public Arbitrator


Signature Date


Date of Service