

**Award**  
**NASD Dispute Resolution, Inc.**

---

In the Matter of the Arbitration Between:

Lester Symons v. Scott Spruth and Morgan Stanley Dean Witter

Case Number: 00-05251

Hearing Site: Los Angeles, California

---

**REPRESENTATION OF PARTIES**

For Claimants:

Lester Symons  
Appeared pro se

For Respondents:

Wendy Robinson, Esq.  
Morgan Stanley Dean Witter  
San Francisco, California

**CASE INFORMATION**

Statement of Claim filed on or about: November 20, 2000

Amended Statement of Claim filed on or about: February 26, 2001

Supplement filed on or about: March 12, 2001

Clarification filed on or about: April 2, 2001

Claimant signed the Uniform Submission Agreement: June 8, 2002

Joint Statement of Answer filed by Respondents on or about: February 1, 2001

Respondents Spruth signed the Uniform Submission Agreement: January 31, 2001

Respondents MSDW Signed the Uniform Submission Agreement: February 1, 2001

### **CASE SUMMARY**

Claimant asserted the following causes of action: Breach of fiduciary duty, misrepresentation, failure to supervise, and omissions. The cause of action relate to the purchase of a Texas Municipal Bond.

Unless specifically admitted in it's Answer, Respondents denied the allegations made in the Statement of Claim and asserted the following defenses: The doctrines of ratification, waiver, estoppel and laches; the trade confirmation put Claimant on notice of all material information; no violation of any securities law exists for failure to disclose common knowledge; statue of limitations; and there is no basis of award punitive damages.

### **RELIEF REQUESTED**

Claimant requested:

Compensatory Damages	\$33,600.00
Punitive Damages	\$66,000.00
Interest	\$ 0.00
Attorneys' Fees	\$ 0.00
Other Costs	UNSPECIFIED

Respondents requested that all claims against them be dismissed in the entirety, that all forum fees be charged to Claimant and that Respondent be awarded the costs and expenses incurred in defending this action.

### **OTHER ISSUES CONSIDERED AND DECIDED**

During the hearings in this matter, at the conclusion of Claimant's presentation of his case in chief, Respondents asserted a Motion to Dismiss. The panel, after due deliberation, determined to deny this Motion.

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.

**AWARD**

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

- 1) Claimant's claims are hereby dismissed in their entirety.
- 2) Claimant's request for punitive damages is hereby denied.
- 3) The panel recommends the expungement from Respondents Scott Spruth's registration records maintained by the NASD Central Registration Depository ("CRD") with the understanding that pursuant to NASD Notice to Members 99-09 and 99-54, Respondents Spruth must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.
- 4) All other request for relief are 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	= \$ 225.00
--------------------------	-------------

**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 dispute. In this matter, the member firm is a party.

Member Surcharge	= \$ 1000.00
Pre-Hearing Process Fee	= \$ 600.00
Hearing Process Fee	= \$ 1500.00

**Forum Fees and Assessments**

The Panel assesses forum fees for each hearing session conducted. A hearing session is a 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 conference: August 13, 2001 1 session	
Two (2) Pre-hearing sessions with Panel x \$750.00	= \$ 1,500.00
Pre-hearing conferences: June 7, 2001 1 session	
April 15, 2002 1 session	
Four (4) Hearing sessions x \$750.00	= \$3,000.00
Hearing Dates: June 6, 2002 2 sessions	
June 7, 2002 2 sessions	
<b>Total Forum Fees</b>	<b>= \$ 4,950.00</b>

1. The Panel has assessed \$4,950.00 of the forum fees against Claimant Lester Symons.

**Fee Summary**

1. Claimant Lester Symons be and hereby is solely liable for:
- |   |               |
|---|---------------|
| Initial Filing Fee                        | = \$ 225.00   |
| <u>Forum Fees</u>                         | = \$ 4,950.00 |
| Total Fees                                | = \$ 5,175.00 |
| <u>Less payments</u>                      | = (\$ 975.00) |
| Balance Due NASD Dispute Resolution, Inc. | = \$ 4,200.00 |
2. Respondent Morgan Stanley Dean Witter be and hereby is solely liable for:
- |                      |                |
|----------------------|----------------|
| <u>Member Fees</u>   | = \$ 3,100.00  |
| Total Fees           | = \$ 3,100.00  |
| <u>Less payments</u> | = (\$3,700.00) |
| Refund Due           | = (\$ 600.00)  |

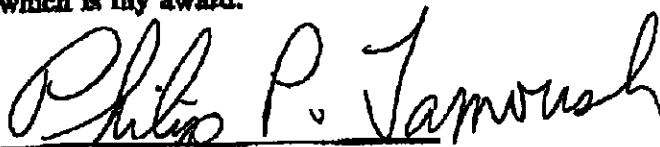
All balances are due and payable to the NASD Dispute Resolution.

**ARBITRATION PANEL**

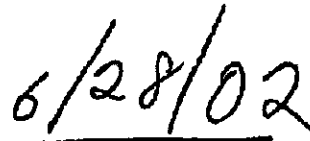
Philip P. Tamoush	-	Public Arbitrator, Presiding Chair
Salvatore A. Sciortino	-	Public Arbitrator
John Michael LeBlanc, Esq.	-	Industry Arbitrator

**Concurring Arbitrators' Signatures**

I, the undersigned arbitrator, do hereby affirm, pursuant to Article 7307 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument which is my award.



Philip P. Tamoush  
Public Arbitrator, Presiding Chair



Signature Date

\_\_\_\_\_  
Salvatore A. Sciortino  
Public Arbitrator

\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
John Michael LeBlanc  
Industry Arbitrator

\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Date of Service (For NASD office use only)

**ARBITRATION PANEL**

Philip P. Tamoush	-	Public Arbitrator, Presiding Chair
Salvatore A. Sciortino	-	Public Arbitrator
John Michael LeBlanc, Esq.	-	Industry Arbitrator

**Concurring Arbitrators' Signatures**

I, the undersigned arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument which is my award.

---

Philip P. Tamoush  
Public Arbitrator, Presiding Chair

---

Signature Date


---

Salvatore A. Sciortino  
Public Arbitrator

---

Signature Date

---

  
John Michael LeBlanc  
Industry Arbitrator

---

7/1/02  
Signature Date

---

Date of Service (For NASD office use only)