

Award
NASD Dispute Resolution, Inc.

In the Matter of the Arbitration Between:

Wallace W. McCoy Trust, Claimant v. Morgan Stanley Dean Witter Inc. and Richard Balaes,
Respondents

Case Number: 00-05460

Hearing Site: San Diego, California

REPRESENTATION OF PARTIES

For Claimant:

Arthur S. Leider
Investors Arbitration
Specialists, Inc.
San Diego, California

For Respondents:

James D. Yellen, Esq.
Morgan Stanley Dean Witter Inc.
New York, New York

CASE INFORMATION

Statement of Claim filed: December 5, 2000

Claimant's Uniform Submission Agreement signed: January 3, 2001

Joint Statement of Answer filed by Respondents Morgan Stanley Dean Witter Inc. and Richard Balaes: February 27, 2001

Respondent Morgan Stanley Dean Witter Inc.'s Uniform Submission Agreement signed:
February 27, 2001

Respondent Richard Balaes' Uniform Submission Agreement signed: February 27, 2001

CASE SUMMARY

Claimant alleged breach of fiduciary duty, negligence, misrepresentation, and omissions. The dispute involved the purchase an/or sale of USEC, Inc. stock.

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

RELIEF REQUESTED

Claimant requested \$470,000.00 in compensatory damages, \$250,000.00 in punitive damages, and also sought interest, legal fees, and arbitration costs.

Respondents requested dismissal of the Claimant's Statement of Claim in its entirety, arbitration costs, and attorney's fees. Additionally, Respondent Richard Balaes requested expungement of his CRD record.

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) Claimant's claims are denied in their entirety.
- 2) The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Richard Balaes' registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 99-09, Respondent Richard Balaes must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.
- 3) 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	= \$ 375.00
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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 Inc. is a party and the following fees are assessed:

Member Surcharge	= \$ 2,000.00
Pre-Hearing Process Fee	= \$ 600.00
<u>Hearing Process Fee</u>	<u>= \$ 3,500.00</u>
Total Member Fees	= \$ 6,100.00

Forum Fees and Assessments

The 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 Panel. The following fees are assessed:

1 Pre-hearing conference session with the Panel @ \$ 1,200.00/session	= \$ 1,200.00
Pre-hearing conference: August 13, 2001 1 session	
3 Hearing sessions @ \$ 1,200.00/session	= \$ 3,600.00
Hearings: February 13, 2001 2 sessions	
February 14, 2001 1 session	
Total Forum Fees	= \$ 4,800.00

1. The Panel assessed \$ 2,400.00 of the forum fees to Claimant Wallace W. McCoy Trust.
2. The Panel assessed \$ 2,400.00 of the forum fees jointly and severally to Respondents Morgan Stanley Dean Witter Inc. and Richard Balaes.

Fee Summary

1. Claimant Wallace W. McCoy Trust is charged with the following fees and costs:

Initial Filing Fee	= \$ 375.00
<u>Forum Fees</u>	<u>= \$ 2,400.00</u>
Total Fees	= \$ 2,775.00
<u>Less payments</u>	<u>= \$(1,575.00)</u>
Balance Due NASD Dispute Resolution, Inc.	= \$ 1,200.00

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

Member Fees	= \$ 6,100.00
<u>Less payments</u>	<u>= \$(6,100.00)</u>
Balance Due NASD Dispute Resolution, Inc.	= \$ 0.00

3. Respondents Morgan Stanley Dean Witter Inc. and Richard Balaes are charged jointly and severally with the following fees and costs:


Forum Fees	= \$ 2,400.00
<u>Less payments by Morgan Stanley Dean Witter Inc.</u>	<u>= \$ (600.00)</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.

ARBITRATION PANEL

Joan Clay Manley, Esq.	-	Public Arbitrator, Presiding Chair
E. Milton Frosburg, Esq.	-	Public Arbitrator
James F. Sommer	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures


Joan Clay Manley, Esq.
Chair, Public Arbitrator

March 7, 2002
Signature Date

E. Milton Frosburg, Esq.
Public Arbitrator

Signature Date

James F. Sommer
Non-Public Arbitrator

Signature Date

March 11, 2002
Date of Service

ARBITRATION PANEL

Joan Clay Manley, Esq.	-	Public Arbitrator, Presiding Chair
E. Milton Frosburg, Esq.	-	Public Arbitrator
James F. Sommer	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

Joan Clay Manley, Esq.
Chair, Public Arbitrator

Signature Date

E. Milton Frosburg
E. Milton Frosburg, Esq.
Public Arbitrator

3/7/02
Signature Date

James F. Sommer
Non-Public Arbitrator

Signature Date

March 11, 2002
Date of Service