

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Steven Marcano, Urban Intelligence Network, Inc., Carolina Barnes Corporation, Frank E. Barnes, III, William S. Barnes, and Michael L. Marks, (Claimants) vs. Morgan Stanley DW Inc. a/k/a Dean Witter Reynolds, Inc., (Respondent)

Case Number: 01-01443

Hearing Site: New York, New York

REPRESENTATION OF PARTIES

Claimants, Steven Marcano ("Marcano"), Urban Intelligence Network, Inc. ("UIN"), Carolina Barnes Corporation ("CBC"), Frank E. Barnes, III ("F. Barnes"), William S. Barnes ("W. Barnes"), and Michael L. Marks ("Marks"), hereinafter collectively referred to as "Claimants": Michael F.X. Ryan, Esq., a sole practitioner, New York, NY.

Respondent, Morgan Stanley DW Inc. a/k/a Dean Witter Reynolds, Inc., hereinafter referred to as "Respondent": Howard M. Sendrovitz, Esq., Vice President and Senior Attorney, Morgan Stanley DW Inc., New York, NY and Timothy DiDomenico, Esq., Greenberg Traurig, LLP, New York, NY.

CASE INFORMATION

Statement of Claim filed on or about: March 22, 2001.

Marcano signed the Uniform Submission Agreement: March 6, 2001.

UIN signed the Uniform Submission Agreement: March 3, 2001.

CBC signed the Uniform Submission Agreement: March 3, 2001.

F. Barnes signed the Uniform Submission Agreement: March 3, 2001.

W. Barnes signed the Uniform Submission Agreement: April 3, 2001.

Marks signed the Uniform Submission Agreement: February 9, 2001.

Statement of Answer filed by Respondent on or about: June 12, 2001.

Respondent signed the Uniform Submission Agreement: June 11, 2001.

CASE SUMMARY

Claimants asserted the following causes of action: detrimental reliance; false and misleading representations; negligence; breach of contract; conversion; and breach of fiduciary duty. Claimants' claim involved the stock of Planet Entertainment.

Unless specifically admitted in its Answer, Respondent denied the allegations made in the Statement of Claim and asserted the following defenses: the Statement of Claim fails to state a cause of action upon which relief can be granted; Claimants approved, authorized, and ratified the acts complained of and, accordingly, are precluded from asserting the same as a basis for recovery; Claimant's losses, if any, were the result of their own conduct; Claimants, by their conduct, have waived any and all claims that they may have had against Respondent; Claimants did not rely to their detriment on any action or inaction of Respondent or on any act or omission legally attributable to Respondent; Claimants' claims are barred, in whole or in part, by the doctrines of estoppel and laches; Claimants' claim for breach of fiduciary duty is barred as a matter of fact; and Claimants' claims for punitive damages are barred as a matter of fact.

RELIEF REQUESTED

Claimants requested compensatory damages in the amount of \$1,372,500.00, plus punitive damages in the amount of \$1,000,000.00, forum fees in the amount of \$1,700.00, attorneys' fees, and costs.

Respondent requested that the Panel:

- a. Dismiss the Statement of Claim in its entirety;
- b. Award Respondent the costs and expenses of this arbitration; and
- c. Award Respondent such other and further relief as is just and proper.

OTHER ISSUES CONSIDERED AND DECIDED

Claimant W. Barnes was not present at the hearings in this matter, although he was represented by counsel. Upon review of the file, the Panel determined that W. Barnes received due notice of the hearings, and that arbitration of the matter would proceed without W. Barnes present.

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, the 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. Claimants' claims are hereby dismissed in their entirety.
2. All other requests for relief are hereby denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

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

Initial claim filing fee = \$ 500.00

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 the dispute. In this matter, Morgan Stanley DW Inc. is a party.

Member surcharge = \$2,500.00
Pre-hearing process fee = \$ 600.00
Hearing process fee = \$4,500.00

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:

Two (2) Pre-hearing sessions with a single arbitrator x \$450.00 = \$ 900.00

Pre-hearing conferences: June 17, 2002 1 session
September 5, 2002 1 session

One (1) Pre-hearing session with Panel x \$1,200.00 = \$1,200.00

Pre-hearing conference: March 7, 2002 1 session

| | | |
|--|------------------|--------------|
| Four (4) Hearing sessions x \$1,200.00 | | = \$4,800.00 |
| Hearing Dates: | January 22, 2003 | 2 sessions |
| | January 23, 2003 | 2 sessions |
| <hr/> Total Forum Fees | | = \$6,900.00 |

1. The Panel has assessed \$3,450.00 of the forum fees jointly and severally against Claimants.
2. The Panel has assessed \$3,450.00 of the forum fees against Respondent.

Fee Summary

1. Claimants are jointly and severally liable for:

| | |
|-------------------------------------|---------------|
| Initial Filing Fee | = \$ 500.00 |
| Forum Fees | = \$ 3,450.00 |
| <hr/> Total Fees | = \$ 3,950.00 |
| <u>Less payments</u> | = \$ 1,700.00 |
| Balance Due NASD Dispute Resolution | = \$ 2,250.00 |

2. Respondent is solely liable for:

| | |
|-------------------------------------|---------------|
| Member Fees | = \$ 7,600.00 |
| Forum Fees | = \$ 3,450.00 |
| <hr/> Total Fees | = \$11,050.00 |
| <u>Less payments</u> | = \$ 8,200.00 |
| Balance Due NASD Dispute Resolution | = \$ 2,850.00 |


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

ARBITRATION PANEL

| | | |
|--------------------------|---|------------------------------------|
| Marilyn J. Salzman, Esq. | - | Public Arbitrator, Presiding Chair |
| Edward Baer, Esq. | - | Public Arbitrator |
| Alan S. Braunschweiler | - | Non-Public 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.


Marilyn J. Salzman, Esq.
Public Arbitrator, Presiding Chair

2/17/03
Signature Date

Edward Baer, Esq.
Public Arbitrator

Signature Date

Alan S. Braunschweiler
Non-Public Arbitrator

Signature Date

February 26, 2003
Date of Service (For NASD Dispute Resolution use only)

ARBITRATION PANEL

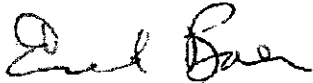
| | | |
|--------------------------|---|------------------------------------|
| Marilyn J. Salzman, Esq. | - | Public Arbitrator, Presiding Chair |
| Edward Baer, Esq. | - | Public Arbitrator |
| Alan S. Braunshweiger | - | Non-Public Arbitrator |

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.

Marilyn J. Salzman, Esq.
Public Arbitrator, Presiding Chair

Signature Date



Feb. 13, 2003

Edward Baer, Esq.
Public Arbitrator

Signature Date

Alan S. Braunshweiger
Non-Public Arbitrator

Signature Date

February 26, 2003

Date of Service (For NASD Dispute Resolution use only)

ARBITRATION PANEL

| | | |
|--------------------------|---|------------------------------------|
| Marilyn J. Salzman, Esq. | - | Public Arbitrator, Presiding Chair |
| Edward Baer, Esq. | - | Public Arbitrator |
| Alan S. Braunschweiger | - | Non-Public Arbitrator |

Concurring Arbitrators' Signatures

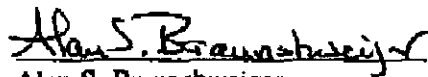
I, the undersigned arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument which is my award.

Marilyn J. Salzman, Esq.
Public Arbitrator, Presiding Chair

Signature Date

Edward Baer, Esq.
Public Arbitrator

Signature Date


Alan S. Braunschweiger
Non-Public Arbitrator

FEBRUARY 13, 2003
Signature Date

February 26, 2003

Date of Service (For NASD Dispute Resolution use only)