

**Award  
NASD**

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In the Matter of the Arbitration Between:

Names of the Claimants

Approach, Inc.  
Quinn Technologies, LTD

Case Number: 01-02403

Names of the Respondents

Luigi Mazza  
Morgan Stanley Dean Witter, Inc.

Hearing Site: Boca Raton, Florida

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**REPRESENTATION OF PARTIES**

For Approach, Inc. ("Approach") and Quinn Technologies, LTD ("Quinn"), hereinafter referred to as "Claimants": Curtis Carlson, Esq., Payton & Carlson, P.A., Miami, Florida.

For Luigi Mazza ("Mazza") and Morgan Stanley Dean Witter, Inc. ("MSDW"), hereinafter referred to as "Respondents": Peter W. Homer, Esq., Homer, Bonner & Delgado, P.A., Miami, Florida.

**CASE INFORMATION**

Statement of Claim filed on or about: May 7, 2001.

Amended Statement of Claim filed on or about: January 22, 2002.

Claimants Approach and Quinn signed one Uniform Submission Agreement: April 19, 2001.

Statement of Answer filed by Respondents on or about: July 25, 2002.

Respondent MSDW signed the Uniform Submission Agreement: August 1, 2001.

Respondent Mazza signed the Uniform Submission Agreement: August 28, 2001.

**CASE SUMMARY**

Claimants asserted the following: 1) Respondent Mazza made false representations to Claimants; 2) Respondent Mazza was negligent in handling Claimants' accounts; 3) Respondent Mazza breached his fiduciary duty to Claimants; 4) Respondents Mazza and MSDW violated Chapter 517, Florida Statutes; and 5) Respondent MSDW is liable for the acts of Respondent Mazza by virtue of the doctrine of respondeat superior. The causes of action relate to the purchase of Reliance Group Holdings Senior 9% bonds.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted various defenses.

**RELIEF REQUESTED**

Claimants requested compensatory damages of between \$50,000.00 to \$100,000.00, plus rescission, interest, punitive damages, attorney's fees, the costs of this proceeding and such

other relief as is deemed just and proper.

Respondents requested that all claims against them be dismissed, that Respondents be awarded their costs and fees and that all references to this matter be expunged from the NASD Central Registration Depository ("CRD") record of Respondent Mazza.

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

The parties agreed that this Award may be executed in counterpart copies.

### **AWARD**

After considering the pleadings, the testimony and evidence presented at the hearing, and the post-hearing submissions (if any), the undersigned arbitrators (the "Panel") has decided in full and final resolution of the issues submitted for determination as follows:

1. Claimants' claims are dismissed with prejudice.
2. Claimants' claims for relief pursuant to Florida Statutes Chapter 517 are specifically denied.
3. Any and all claims for relief not specifically addressed herein, including Claimants' requests for punitive damages and attorney's fees, are denied.
4. The Panel recommends the expungement of all references to the above captioned arbitration from Respondent Mazza's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notices to Members 99-09 and 99-54, Respondent Mazza must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

### **FEES**

Pursuant to the NASD Code of Arbitration Procedure (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	= \$ 225.00
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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. Accordingly, Morgan Stanley Dean Witter, Inc. is a party.

Member surcharge	= \$1,000.00
Pre-hearing process fee	= \$ 600.00
Hearing process fee	= \$1,500.00

### **Adjournment Fees**

No adjournments were granted during these proceedings for which fees were assessed.

### **Injunctive Relief Fees**

Injunctive relief fees are assessed to each member or associated person who files for a temporary injunction in court. Parties in these cases are also assessed arbitrator travel expenses and costs when an arbitrator is required to travel outside his or her hearing location and additional arbitrator honoraria for the hearing for permanent injunction. These fees, except the injunctive relief surcharge, are assessed equally against each party unless otherwise directed by the panel.

No injunctive relief fees were incurred during this proceeding.

### **Forum Fees and Assessments**

The Panel has assessed forum fees for each session conducted. A 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 Panel @ \$750.00	= \$ 750.00
Pre-hearing conferences: January 16, 2002	1 session
Four (4) Hearing sessions @ \$750.00	= \$3,000.00
Hearing Dates: August 20, 2002	2 sessions
August 21, 2002	2 sessions
Total Forum Fees	= \$3,750.00

The Panel has assessed \$1,875.00 of the forum fees jointly and severally to Claimants.  
The Panel has assessed \$1,875.00 of the forum fees jointly and severally to Respondents.

### **Administrative Costs**

Administrative costs are expenses incurred due to a request by a party for special services beyond the normal administrative services. These include, but not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

No administrative fees were incurred during this proceeding.

### **Fee Summary**

1. Claimants are jointly and severally liable for:	
Initial Filing Fee	= \$ 225.00
Forum Fees	= \$1,875.00
Total Fees	= \$2,100.00
Less payments	= \$ 975.00
Balance Due NASD	= \$1,125.00

- Balance Due NASD = \$1,875.00

Code.

## ARBITRATION PANEL

- *Non-Public Arbitrator*

### Concurring Arbitrators' Signatures

Signature Date

**Signature      Date**

Signature Date

October 1, 2002

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

2. Respondent MSDW is solely liable for:
- |                         |              |
|-------------------------|--------------|
| <u>Member Fees</u>      | = \$3,100.00 |
| <u>Total Fees</u>       | = \$3,100.00 |
| <u>Less payments</u>    | = \$3,100.00 |
| <u>Balance Due NASD</u> | = \$ 0.00    |
3. Respondents Mazza and MSDW are jointly and severally liable for:
- |                         |              |
|-------------------------|--------------|
| <u>Forum Fees</u>       | = \$1,875.00 |
| <u>Total Fees</u>       | = \$1,875.00 |
| <u>Less payments</u>    | = \$ 0.00    |
| <u>Balance Due NASD</u> | = \$1,875.00 |

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

**ARBITRATION PANEL**

<i>Frances D. Sheehy, Esq.</i>	-	<i>Public Arbitrator, Presiding Chairperson</i>
<i>Arthur C. Bivins, III</i>	-	<i>Public Arbitrator</i>
<i>Kathy N. Novick</i>	-	<i>Non-Public Arbitrator</i>

**Concurring Arbitrators' Signatures**



Frances. D. Sheehy, Esq.  
Public Arbitrator, Presiding Chairperson

9-25-02  
Signature Date

\_\_\_\_\_  
Arthur C. Bivins, III  
Public Arbitrator

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

\_\_\_\_\_  
Kathy N. Novick  
Non-Public Arbitrator

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

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

2. Respondent MSDW is solely liable for:
- |                  |              |
|------------------|--------------|
| Member Fees      | = \$3,100.00 |
| Total Fees       | = \$3,100.00 |
| Less payments    | = \$3,100.00 |
| Balance Due NASD | = \$ 0.00    |
3. Respondents Mazza and MSDW are jointly and severally liable for:
- |                  |              |
|------------------|--------------|
| Forum Fees       | = \$1,875.00 |
| Total Fees       | = \$1,875.00 |
| Less payments    | = \$ 0.00    |
| Balance Due NASD | = \$1,875.00 |

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

**ARBITRATION PANEL**

Frances D. Sheehy, Esq.	-	Public Arbitrator, Presiding Chairperson
Arthur C. Bivins, III	-	Public Arbitrator
Kathy N. Novick	-	Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

Frances D. Sheehy, Esq.  
Public Arbitrator, Presiding Chairperson

Signature Date



Arthur C. Bivins, III  
Public Arbitrator

09-27-02  
Signature Date

Kathy N. Novick  
Non-Public Arbitrator

Signature Date

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

2 Respondent MSDW is solely liable for:

Member Fees	= \$3,100.00
Total Fees	= \$3,100.00
Less payments	= \$3,100.00
Balance Due NASD	= \$ 0.00

3 Respondents Mazza and MSDW are jointly and severally liable for:

Forum Fees	= \$1,875.00
Total Fees	= \$1,875.00
Less payments	= \$ 0.00
Balance Due NASD	= \$1,875.00

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

**ARBITRATION PANEL**

Frances D. Sheehy, Esq.	-	Public Arbitrator, Presiding Chairperson
Arthur C. Bivins, III	-	Public Arbitrator
Kathy N. Novick	-	Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

Frances D. Sheehy, Esq.  
Public Arbitrator, Presiding Chairperson

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

Arthur C. Bivins, III  
Public Arbitrator

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

  
Kathy N. Novick  
Non-Public Arbitrator

  
Sept. 26, 2002  
Signature Date

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