

**Award**  
**NASD Dispute Resolution**

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In the Matter of the Arbitration Between:

Wedbush Morgan Securities, Inc., Claimant v. Diep Q. Le and Tam M. Le, Respondents

Case Number: 01-02486

Hearing Site: San Francisco, California

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**REPRESENTATION OF PARTIES**

For Claimant:

Gary L. Holmes, Esq.  
Wedbush Morgan Securities, Inc.  
Los Angeles, California

For Respondents:

Richard Sacks  
Securities Arbitration Consultant  
Novato, California

**CASE INFORMATION**

Statement of Claim filed: May 11, 2001

Claimant's Uniform Submission Agreement signed: May 10, 2001

Joint Statement of Answer filed by Respondents: October 12, 2001

Respondents' Joint Uniform Submission Agreement signed: October 10, 2001

**CASE SUMMARY**

Claimant alleged unjust enrichment, conversion, and open book account. The claims allegedly arose from an over-credit of funds in Respondents' Wedbush Morgan Securities, Inc. brokerage account.

Respondents denied the allegations of wrongdoing set forth in the Claimant's Statement of Claim and filed a Counterclaim alleging suitability, failure to exercise due diligence, negligence, failure to supervise, breach of contract and breach of fiduciary duty.

**RELIEF REQUESTED**

Claimant requested compensatory damages in the amount of \$25,154.99, punitive damages in the amount of \$10,000.00, interest and costs, including attorney's fees.

Respondents requested dismissal of the Claimant's Statement of Claim in its entirety. In their Counterclaim, Respondents requested compensatory damages in the amount of \$107,000.00, and costs, including attorney's fees.

**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. Respondents are jointly and severally liable to and shall pay Claimant the sum of \$13,500.00 in compensatory damages.
2. Claimant's claim for punitive damages is denied.
3. Respondents' Counterclaim is denied in its entirety, including any claims for punitive damages.
4. The parties shall bear their respective costs, including attorney's fees.
5. 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 received or will collect the non-refundable filing fees for each claim as follows:

Initial claim filing fee	= \$ 1,000.00
Respondent's Counterclaim filing fee	= \$ 300.00

#### **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 that gave rise to the dispute, claim, or controversy. Accordingly, the member firm Wedbush Morgan Securities, Inc. is a party and the following fees are assessed:

Member Surcharge	= \$ 800.00
Pre-Hearing Process Fee	= \$ 600.00
Hearing Process Fee	= \$ 2,500.00
<b>Total Member Fees</b>	<b>= \$ 3,900.00</b>

#### **Adjournment Fees**

The following adjournment fees are assessed:

February, 2002 Hearing dates, adjournment requested by Claimant	= \$ 600.00
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#### **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 Chair or the parties and the Panel. The following fees are assessed:

One (1) Pre-hearing conference session with a single Arbitrator @ \$450.00/session = \$ 450.00

Pre-hearing conferences: January 22, 2002 1 session

One (1) Pre-hearing conference sessions with the Panel @ \$1,125.00/session = \$ 1,125.00

Pre-hearing conferences: December 18, 2001 1 session

Three (3) Hearing sessions @ \$1,125.00/session = \$ 3,375.00

Hearings: February 4, 2003 2 sessions  
February 5, 2003 1 session

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**Total Forum Fees** = **\$ 4,950.00**

1. The Panel assessed \$2,475.00 of the forum fees to Claimant.
2. The Panel assessed \$2,475.00 of the forum fees jointly and severally to Respondents.

**Fee Summary**

1. Claimant is charged with the following fees and costs:

Initial Filing Fee	= \$ 1,000.00
Member Fees	= \$ 3,900.00
Adjournment Fee	= \$ 600.00
<u>Forum Fees</u>	<u>= \$ 2,475.00</u>
Total Fees	= \$ 7,975.00
<u>Less payments</u>	<u>= \$(4,600.00)</u>
<b>Balance Due NASD Dispute Resolution</b>	<b>= \$ 3,375.00</b>

2. Respondents are charged jointly and severally with the following fees and costs:

Counterclaim Filing Fee	= \$ 300.00
<u>Forum Fees</u>	<u>= \$ 2,475.00</u>
Total Fees	= \$ 2,775.00
<u>Less payments</u>	<u>= \$( 975.00)</u>
<b>Balance Due NASD Dispute Resolution</b>	<b>= \$ 1,800.00</b>

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

**ARBITRATION PANEL**

Barbara M. Anscher, J.D.	-	Public Arbitrator, Presiding Chair
John P. Wilson	-	Public Arbitrator
Mark R. Palmer	-	Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

*Barbara M. Anscher*  
Barbara M. Anscher, J.D.  
Chair, Public Arbitrator

2/14/03  
Signature Date

\_\_\_\_\_  
John P. Wilson  
Public Arbitrator

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

\_\_\_\_\_  
Mark R. Palmer  
Non-Public Arbitrator

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

2/18/03  
Date of Service

**ARBITRATION PANEL**

Barbara M. Anscher, J.D.	-	Public Arbitrator, Presiding Chair
John P. Wilson	-	Public Arbitrator
Mark R. Palmer	-	Non-Public Arbitrator

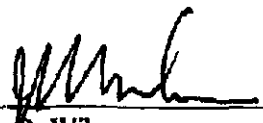
**Concurring Arbitrators' Signatures**

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Barbara M. Anscher, J.D.  
Chair, Public Arbitrator

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Signature Date



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John P. Wilson  
Public Arbitrator

February 18, 2003  
Signature Date

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Mark R. Palmer  
Non-Public Arbitrator

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Signature Date

2/18/03  
Date of Service

**ARBITRATION PANEL**

Barbara M. Anscher, J.D.  
John P. Wilson  
Mark R. Palmer

- Public Arbitrator, Presiding Chair  
- Public Arbitrator  
- Non-Public Arbitrator

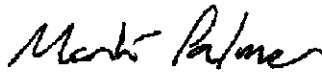
**Concurring Arbitrators' Signatures**

Barbara M. Anscher, J.D.  
Chair, Public Arbitrator

Signature Date

John P. Wilson  
Public Arbitrator

Signature Date

  
Mark R. Palmer  
Non-Public Arbitrator

2-13-03  
Signature Date

2/18/03  
Date of Service