
Stipulated Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Names of the Claimants

Walter Bockmayer and Werner Josef Buehrmann, JTEN

Case Number: 01-02514

Names of the Respondents

Morgan Stanley Dean Witter, Inc.

Gail J. Atterman

Donald Lockshin

Hearing Site: Boca Raton, Florida

Nature of the Dispute: Customer vs. Member and Associated Persons.

REPRESENTATION OF PARTIES

For Walter Bockmayer and Werner Josef Buehrmann, JTEN, hereinafter referred to as "Claimants": Darren C. Blum, Esq. and Scott L. Silver, Esq., Law Offices of Darren C. Blum, Plantation Florida.

For Respondent Morgan Stanley Dean Witter, Inc. ("MSDW"): Lisa B. Dodge, Esq., MSDW, Sarasota, Florida.

For Respondents Gail J. Atterman ("Atterman") and Donald Lockshin ("Lockshin"): Peter W. Homer, Esq. and Laura J. Starr, Esq., Homer & Bonner, P.A., Miami, Florida.

CASE INFORMATION

Statement of Claim filed on or about: May 3, 2001.

Claimants signed the Uniform Submission Agreement: June 10, 2001.

Statement of Answer and Counterclaim filed by Respondents MSDW and Atterman on or about: September 4, 2001.

Respondent MSDW signed the Uniform Submission Agreement: October 10, 2001.

Respondent Atterman signed the Uniform Submission Agreement: September 7, 2001.

Respondent Lockshin signed the Uniform Submission Agreement: September 15, 2003.

Respondent Lockshin did not file an Answer to the Statement of Claim.

Response and Motion to Dismiss Counterclaim filed by Claimants on or about: September 17, 2001.

Response to Motion to Dismiss Counterclaim filed by Respondents MSDW and Atterman on or about: November 20, 2001.

Motion to Amend the Statement of Claim filed by Claimants on or about: December 13, 2002.

CASE SUMMARY

Claimants asserted the following causes of action: 1) misrepresentations; 2) negligence; 3) breach of fiduciary duty; 4) violation of Chapter 517, Florida Statutes; 5) failure to supervise; and, 6) unsuitability. The causes of action relate to the purchase and sale of various stocks, including, but not limited to, Boeing, Lucent, At Home, Rambus and Digital Island and the use of options trading in Claimants' account.

Unless specifically admitted in their Answers, Respondents MSDW and Atterman denied the allegations made in the Statement of Claim and asserted various affirmative defenses. In addition, Respondents MSDW and Atterman filed a counterclaim against Claimant Bockmayer which alleged that if the Claimants suffered injury, it is the direct responsibility of Claimant Bockmayer.

Unless specifically admitted in his Answer to Counterclaim, Claimant Bockmayer denied the allegations made in the Counterclaim and asserted various affirmative defenses.

RELIEF REQUESTED

Claimants requested compensatory damages in excess of \$352,000.00, interest or reasonable market return, rescission, costs, reasonable attorney's fees, punitive damages and for such other relief as the Panel deemed just and proper. In addition, Claimant Bockmayer requested that the counterclaim be dismissed in its entirety.

Respondents MSDW and Atterman requested that the Statement of Claim be dismissed in its entirety, that Respondents MSDW and Atterman be awarded their costs and that Respondents MSDW and Atterman be permitted to seek their fees in a court of law. In their counterclaim, Respondents MSDW and Atterman requested indemnification from Claimant Bockmayer.

OTHER ISSUES CONSIDERED AND DECIDED

On or about January 31, 2003, the Panel granted Claimants' Motion to Amend the Statement of Claim in order to add Donald Lockshin as a Respondent in this matter.

Claimants' Amended Statement of Claim was not served upon Donald Lockshin, nor was it filed with NASD Dispute Resolution; however, Claimants notified Donald Lockshin's employer, MSDW, that he was a party to this arbitration. MSDW reported this information to the NASD Central Registration Depository (the "CRD"). On or about September 12, 2003, Donald Lockshin submitted to NASD Dispute Resolution a letter wherein he waived his right to service of the Statement of Claim and filed with NASD Dispute Resolution an executed Uniform Submission Agreement, dated September 15, 2003, in order to request expungement of this matter from his NASD CRD records.

On or about August 27, 2003, Claimants informed NASD Dispute Resolution that the parties had settled this matter.

On or about September 4, 2003, the parties submitted to NASD Dispute Resolution an agreed to, proposed Stipulated Award with a request for expungement of the NASD CRD public and non-public records of Respondents Lockshin and Atterman.

The parties have agreed that the Stipulated Award in this matter may be entered in counterpart copies or that a signed handwritten Stipulated Award may be entered.

AWARD

After considering the pleadings and the proposed Stipulated Award with request for expungement, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

- 1) Claimants' claims for relief, including claims under Chapter 517, Florida Statutes, and Respondents' Counterclaim are dismissed, with prejudice.
- 2) The Panel recommends the expungement of all references to the above captioned arbitration from Respondents Atterman and Lockshins' public and non-public registration records maintained by the NASD CRD, with the understanding that pursuant to NASD Notices to Members 99-09 and 99-54, Respondents Atterman and Lockshin must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.
- 3) Any and all claims for relief not specifically addressed herein, including Claimants' request for punitive damages and attorney's fees, are denied.

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	= \$ 300.00
Counterclaim filing fee	= \$1,000.00

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. Accordingly, MSDW is a party to this dispute and was a member of NASD at the time the following fees were assessed:

Member surcharge	= \$1,500.00
Pre-hearing process fee	= \$ 600.00
Hearing process fee	= \$2,500.00

Adjournment Fees

No requests for adjournments were filed in this matter for which fees were assessed.

Injunctive Relief Fees

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 @ \$1,125.00	= \$1,125.00
Pre-hearing conferences: February 25, 2002 1 session	
<u>Total Forum Fees</u>	<u>= \$1,125.00</u>

The Panel has assessed \$562.50 of the forum fees jointly and severally to Claimants.

The Panel has assessed \$562.50 of the forum fees jointly and severally to Respondents MSDW and Atterman.

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 costs were incurred during this proceeding.

Fee Summary

Claimants are jointly and severally liable for:

Initial Filing Fee	= \$ 300.00
Forum Fees	= \$ 562.50
<u>Retained Hearing Session Deposit</u>	<u>= \$ 562.50</u>
<u>Total Fees</u>	<u>= \$ 1,425.00</u>
<u>Less payments</u>	<u>= \$ 1,425.00</u>
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondent MSDW is solely liable for:

Member Fees	= \$ 4,600.00
<u>Total Fees</u>	<u>= \$ 4,600.00</u>
<u>Less payments</u>	<u>= \$ 4,600.00</u>
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondents MSDW and Atterman are jointly and severally liable for:

Counterclaim Filing Fee	= \$ 1,000.00
Forum Fees	= \$ 562.50
<u>Retained Hearing Session Deposit</u>	<u>= \$ 562.50</u>
<u>Total Fees</u>	<u>= \$ 2,125.00</u>
<u>Less payments</u>	<u>= \$ 2,125.00</u>
Balance Due NASD Dispute Resolution	= \$ 0.00

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

ARBITRATION PANEL

Leslie L. Cooney, Esq.
Albert Fox
Herbert Schwartz

- *Public Arbitrator, Presiding Chairperson*
- *Public Arbitrator*
- *Non-Public Arbitrator*

Concurring Arbitrators' Signatures

/s/
Leslie L. Cooney, Esq.
Public Arbitrator, Presiding Chairperson

10/16/03
Signature Date

/s/
Albert Fox
Public Arbitrator

10/20/03
Signature Date

/s/
Herbert Schwartz
Non-Public Arbitrator

10/17/03
Signature Date

10/21/03
Date of Service (For NASD Dispute Resolution office use only)

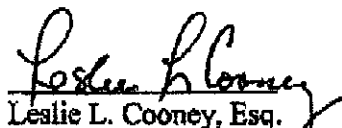
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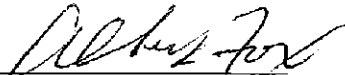
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Public Arbitrator

10-20-03

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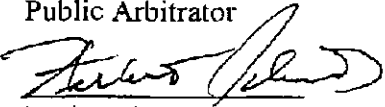
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