
Stipulated Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Names of the Claimants

Case Number: 01-03175

Jean M. Cummins; IRA Rollover
Dated 09/09/98;
Jean M. Cummins Trustee of
Jean M. Cummins Trust U/A
Dtd March 19, 1991

Names of the Respondents

Hearing Site: Boca Raton, Florida

Morgan Stanley Dean Witter
James E. Brooks

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

REPRESENTATION OF PARTIES

For Jean M. Cummins; IRA Rollover Dated 09/09/98; and Jean M. Cummins Trustee of Jean M. Cummins Trust U/A Dtd March 19, 1991, hereinafter referred to as "Claimant": Scott Silver, Esq., Blum, Silver and Schwartz, LLP, Plantation, Florida.

For Morgan Stanley Dean Witter ("MSDW") and James E. Brooks ("Brooks"), hereinafter collectively referred to as "Respondents": Peter W. Homer, Esq. and Laura J. Starr, Esq., Homer & Bonner, P.A., Miami, Florida.

CASE INFORMATION

Statement of Claim filed on or about: June 9, 2001.

Claimant signed the Uniform Submission Agreement: May 22, 2001.

Statement of Answer filed by Respondents on or about: December 27, 2001.

Respondent MSDW signed the Uniform Submission Agreement: January 27, 2002.

Respondent Brooks signed the Uniform Submission Agreement: February 1, 2002.

CASE SUMMARY

Claimant asserted the following: Respondents breached their contract with Claimant; 2) Respondents breached their fiduciary duty to Claimant; 3) Respondents engaged in unauthorized transactions; 4) Respondents violated Chapter 517, Florida Statutes; 5) Respondent MSDW failed to supervise; and 6) Respondents recommended unsuitable investments. The causes of action relate to the purchase of unspecified technology securities and options in Claimant's accounts.

Unless specifically admitted in their Answer, Respondents denied all allegations of wrongdoing, and asserted various affirmative defenses.

RELIEF REQUESTED

Claimant requested compensatory damages in excess of \$100,000.00, plus interest, costs, attorney's fees, 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, that Respondents be permitted to seek their fees in a court of law, and that all references to this matter be expunged from the NASD Central Registration Depository ("CRD") records of Respondent Brooks.

OTHER ISSUES CONSIDERED AND DECIDED

On November 3, 2003, the parties filed with NASD Dispute Resolution a notice of settlement.

On November 24, 2003, the parties filed with NASD Dispute Resolution a proposed Stipulated Award for review and approval by the Panel.

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

AWARD

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

1. Claimant's claims for relief, including claims under Chapter 517 of the Florida Statutes, are dismissed with prejudice.
2. Any and all claims for relief not specifically addressed herein, including Claimant's request for discovery sanctions, punitive damages and attorney's fees, are denied.
3. The Panel recommends the expungement of all references to the above-captioned arbitration from Respondent Brooks' public and non-public registration records maintained by the NASD CRD, with the understanding that pursuant to NASD Notice to Members 99-09 and 99-54, Respondent Brooks 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

Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute. Accordingly, MSDW is a party.

Member surcharge	= \$1,000.00
Pre-hearing process fee	= \$ 600.00
Hearing process fee	= \$1,500.00
Total Member Fees	= \$3,100.00

Adjournment Fees

No adjournments were requested in this matter.

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.

Injunctive relief fees were not assessed in this matter.

Forum Fees and Assessments

The Panel has assessed forum fees for each session conducted. A session is any meeting between the parties and the arbitrator(s), including a pre-hearing conference with the arbitrator(s), that lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) Pre-hearing session with the Panel @ \$750.00/session	= \$750.00
Pre-hearing conference: August 16, 2002 1 session	
Two (2) Pre-hearing sessions with a single arbitrator @ \$450.00/session	= \$900.00
Pre-hearing conferences: October 15, 2003 1 session	
October 31, 2003 1 session	
Total Forum Fees	= \$1,650.00

Pursuant to the agreement of the parties, the Panel has assessed forum fees of \$825.00 to Claimant, and \$825.00 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.

There were no administrative costs incurred in this matter.

Fee Summary

Claimant is solely liable for:

Initial Filing Fee	= \$ 225.00
<u>Forum Fees</u>	= \$ 825.00
Total Fees	= \$1,050.00
<u>Less Payments</u>	= \$ 975.00
Balance Due NASD Dispute Resolution	= \$ 75.00

Respondent MSDW is solely liable for:

<u>Member Fees</u>	= \$3,100.00
Total Fees	= \$3,100.00
<u>Less Payments</u>	= \$3,100.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondents are jointly and severally liable for:

<u>Forum Fees</u>	= \$ 825.00
Total Fees	= \$ 825.00
<u>Less Payments</u>	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 825.00

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

ARBITRATION PANEL

Alan B. Goldstein, Esq.	-	Public Arbitrator, Presiding Chairperson
Camille Besold	-	Public Arbitrator
Irwin M. Chase	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

_____/s/_____
Alan B. Goldstein, Esq.
Public Arbitrator, Presiding Chairperson

12/11/03
Signature Date

_____/s/_____
Camille Besold
Public Arbitrator

12/11/03
Signature Date

_____/s/_____
Irwin M. Chase
Non-Public Arbitrator

12/15/03
Signature Date

12/18/03
Date of Service (For NASD Dispute Resolution office use only)

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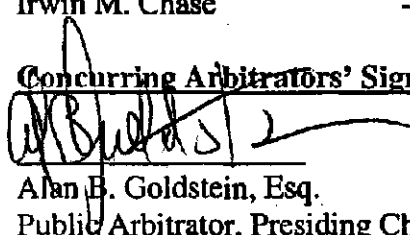
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Public Arbitrator, Presiding Chairperson


Signature Date

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Public Arbitrator

Signature Date

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FL ARBITRATION

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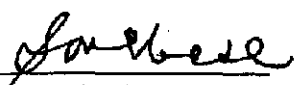
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Public Arbitrator, Presiding Chairperson

Signature Date

Camille Besold
Public Arbitrator

Signature Date



Irwin M. Chase
Non-Public Arbitrator

12/15/03

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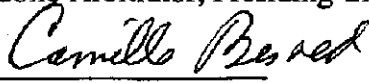
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