

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Shelia Gay Bixsen, et al. v. Morgan Stanley Dean Witter and Heather Downs

Case Number: 02-00190

Hearing Site: Los Angeles, California

REPRESENTATION OF PARTIES

For Claimants:

Shelia Gay Bixsen
Shelia Gay Bixsen Retirement Plan Trust
Shelia Gay Bixsen IRA

Jonathan W. Evans, Esq.
Law Offices of Jonathan
W. Evans & Associates
Los Angeles, California

For Respondents:

Michael J. Abbott, Esq.
Jones, Bell, Abbott,
Fleming & Fitzgerald LLP
Los Angeles, California

CASE INFORMATION

Statement of Claim filed: January 8, 2002.

Claimants' Uniform Submission Agreement submitted: January 8, 2002.

Statement of Answer filed by Respondents Morgan Stanley Dean Witter Inc. and Heather Downs: March 27, 2002.

Respondent Morgan Stanley Dean Witter Inc.'s Uniform Submission Agreement received: March 28, 2002.

Respondent Heather Downs' Uniform Submission Agreement received: April 9, 2002.

CASE SUMMARY

Claimants alleged negligence, suitability, misrepresentation, unauthorized trading, failure to supervise, breach of contract, breach of fiduciary duty, violation of federal and state law and

violation of NASD rules relating to four investment accounts maintained by Respondent Morgan Stanley Dean Witter Inc.

Respondents denied the allegations of wrongdoing set forth in the Claimants' Statement of Claim.

RELIEF REQUESTED

Claimants requested \$150,000.00 in compensatory damages, interest at 10% per annum on \$150,000.00, an order of rescission from the Panel, disgorgement of commissions paid by Claimants to Respondents on Claimants' investment accounts, a reasonable investment return on the sums invested by Claimants, and costs, including attorney's fees.

Respondents requested dismissal of the Claimants' Statement of Claim in its entirety and costs, including attorney's fees.

OTHER ISSUES CONSIDERED AND DECIDED

During the evidentiary hearing Claimants made a Motion for Monetary Sanctions for Discovery Abuses against Respondent Morgan Stanley Dean Witter Inc. The Panel granted the Motion and ordered Respondent Morgan Stanley Dean Witter Inc. to pay \$1,050.00 to Claimants. The Panel's order does not relate to activities by Respondent Morgan Stanley Dean Witter Inc.'s current legal counsel Jones, Bell, Abbott, Fleming & Fitzgerald, LLP.

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 Morgan Stanley Dean Witter Inc. and Heather Downs are jointly and severally liable to and shall pay Claimants the sum of \$43,917.43 in compensatory damages.
- 2) Respondents Morgan Stanley Dean Witter Inc. and Heather Downs are jointly and severally liable to and shall pay Claimants pre-judgment interest in the amount of \$2,195.87.

- 3) Respondents Morgan Stanley Dean Witter Inc. and Heather Downs are jointly and severally liable to and shall pay Claimants post-judgment interest in the amount of 5% per annum on \$43,917.43 from the date of service of the Award until the date the Award is paid in full.
- 4) Respondent Morgan Stanley Dean Witter Inc. liable to and shall pay Claimants \$1,050.00 for discovery abuses.
- 5) The parties shall bear their respective costs, including attorney's fees.
- 6) All other relief requested and not expressly granted is denied.

FEES

Pursuant to the Code of Arbitration Procedure ("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	= \$ 300.00
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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 Morgan Stanley Dean Witter Inc. is a party and the following fees are assessed:

Member Surcharge	= \$ 1,700.00
Pre-Hearing Process Fee	= \$ 750.00
<u>Hearing Process Fee</u>	= \$ 2,750.00
Total Member Fees	= \$ 5,200.00

Forum Fees and Assessments

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

(1) Pre-hearing conference session with the Panel @ \$1,125.00/session	= \$ 1,125.00
Pre-hearing conference: July 19, 2002 1 session	
(8) Hearing sessions @ \$1,125.00/session	= \$ 9,000.00
Hearings: April 22, 2003 2 sessions	

April 23, 2003	2 sessions
April 24, 2003	2 sessions
April 25, 2003	2 sessions

Total Forum Fees	= \$ 10,125.00
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1. The Panel assessed \$5,062.50 of the forum fees jointly and severally to Claimants.
2. The Panel assessed \$ 5,062.50 of the forum fees jointly and severally to Respondents.

Fee Summary

1. Claimants are jointly and severally charged with the following fees and costs:

Initial Filing Fee	= \$ 300.00
<u>Forum Fees</u>	<u>= \$ 5,062.50</u>
Total Fees	= \$ 5,362.50
<u>Less payments</u>	<u>=(1,425.00)</u>
Balance Due NASD Dispute Resolution	= \$ 3,937.50

2. Respondent Morgan Stanley Dean Witter Inc. is charged with the following fees and costs:

Member Fees	= \$ 5,200.00
<u>Less payments</u>	<u>=(5,200.00)</u>
Balance Due NASD Dispute Resolution	= \$ 0.00

3. Respondents Morgan Stanley Dean Witter Inc. and Heather Downs are charged jointly and severally with the following fees and costs:


Forum Fees	= \$ 5,062.50
<u>Less payments by Morgan Stanley Dean Witter Inc.</u>	<u>=(750.00)</u>
Balance Due NASD Dispute Resolution	= \$ 4,312.50

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

Robert E. Thompson, Esq.	-	Public Arbitrator, Presiding Chair
Robert B. Hansohn	-	Public Arbitrator
Michael G. Clark	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures


Robert E. Thompson, Esq.
Chair, Public Arbitrator

4-28-03
Signature Date

Robert B. Hansohn
Public Arbitrator

Signature Date

Michael G. Clark
Non-Public Arbitrator

Signature Date

4/28/03
Date of Service

ARBITRATION PANEL


Robert E. Thompson, Esq.
Robert B. Hansohn
Michael G. Clark

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

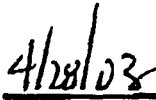
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Chair, Public Arbitrator

Signature Date



Robert B. Hansohn
Public Arbitrator



Signature Date

Michael G. Clark
Non-Public Arbitrator

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