

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimant

Ruth G. Johnson, Individually,
Ruth G. Johnson f/b/o Ruth G.
Johnson Individual Retirement
Account, and Ruth G. Johnson,
as Trustee of the E. Nathan
Johnson Residuary Trust

Case Number: 02-02365

Names of the Respondents

Morgan Stanley DW, Inc. f/k/a
Dean Witter Reynolds, Inc.
John Flading

Hearing Site: Atlanta, Georgia

REPRESENTATION OF PARTIES

For Ruth G. Johnson, Individually, Ruth G. Johnson f/b/o Ruth G. Johnson Individual Retirement Account, and Ruth G. Johnson, as Trustee of the E. Nathan Johnson Residuary Trust, hereinafter referred to as "Claimant": Frank A. Lightmas, Jr., Esq., Lightmas & Delk, Atlanta, Georgia.

For Respondent Morgan Stanley DW, Inc. f/k/a Dean Witter Reynolds, Inc. ("Morgan"): James D. Yellen, Esq., Morgan, New York, New York.

For Respondent John Flading ("Flading"): Paul W. Stivers, Esq., Jeffrey W. Willis, Esq. and John Da Grosa Smith, Esq., Rogers & Hardin, LLP, Atlanta, Georgia.

CASE INFORMATION

Statement of Claim filed on or about: April 15, 2002.

Letter to NASD Dispute Resolution dated May 6, 2002 from Frank A. Lightmas, Jr., Esq. filed.
Claimant signed the Uniform Submission Agreement: March 29, 2002.

Statement of Answer filed by Respondents on or about: July 17, 2002.

Respondent Flading signed the Uniform Submission Agreement: July 17, 2002.

Respondent Morgan signed the Uniform Submission Agreement: August 2, 2002.

CASE SUMMARY

Claimant asserted the following causes of action: fraud (violations of the antifraud provisions of the Georgia Securities Act and the federal securities acts, and Georgia common law fraud); breach of contract and breach of duty; breach of fiduciary duty; churning; suitability; negligence; and, breach of the duty to supervise and other liability of Respondent Morgan. The causes of action relate to the purchase and sale of unspecified securities products in Claimant's accounts.

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

RELIEF REQUESTED

Claimant requested actual or compensatory damages, including out of pocket damages which were 1.4 million, punitive damages, pre-award and post-award interest and attorneys' fees and litigation expenses.

Respondents requested that the arbitration panel enter an award as follows: that all claims of Claimant be dismissed as without legal merit; that the panel recommend the expungement of all references to this claim from Respondent Flading's registration records maintained by the CRD; that the costs and expenses of this proceeding be assessed against Claimant; and, that the panel grant Respondents such other and further relief as the panel may deem proper. Further, Respondent Morgan requested attorneys' fees.

OTHER ISSUES CONSIDERED AND DECIDED

The parties have agreed that the Award in this matter 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") have decided in full and final resolution of the issues submitted for determination as follows:

Respondents are found liable on the suitability claim, jointly and severally, and shall pay to Claimant the sum of \$497,228.00, plus interest at the rate of 7% per annum from 30 days following the date of the Award until the date of payment of the Award.

Respondent Morgan is found liable on the claim of breach of the duty to supervise and shall pay to Claimant the sum of \$150,000.00, plus interest at the rate of 7% per annum from 30 days following the date of the Award until the date of payment of the Award.

Each party shall pay their respective attorneys' fees.

Any and all claims for relief not specifically addressed herein, including Claimant's request for punitive damages and Respondents' request for an expungement of all references to this claim from Respondent Flading's registration records maintained by the CRD, 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 = \$500.00

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. In this matter, the member firm is a party.

Member surcharge = \$2,800.00

Pre-hearing process fee = \$ 750.00

Hearing process fee = \$5,000.00

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

No requests for adjournments for which fees were assessed were granted 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.

No injunctive relief fees were incurred 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 Pre-hearing session with a single arbitrator @ \$450.00 = \$450.00

Pre-hearing conference: June 2, 2003 1 session

One Pre-hearing session with the Panel @ \$1,200.00 = \$1,200.00

Pre-hearing conference: November 18, 2002 1 session

Ten Hearing sessions @ \$1,200.00 = \$12,000.00

Hearing Dates: August 18, 2003 2 sessions
August 19, 2003 2 sessions
August 20, 2003 2 sessions
August 21, 2003 2 sessions
August 22, 2003 2 sessions

Total Forum Fees = \$13,650.00

The Panel has assessed the total forum fees of \$13,650.00 to Respondent Morgan.

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 are 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 in this matter.

FEE SUMMARY

Claimant is solely liable for:

Initial Filing Fee = \$500.00

Total Fees = \$500.00

Less payments = \$500.00

Balance Due NASD Dispute Resolution = \$0.00

Respondent Morgan is solely liable for:

Member Fees = \$8,550.00

Forum Fees = \$13,650.00

Total Fees = \$22,200.00

Less payments = \$8,550.00

Balance Due NASD Dispute Resolution = \$13,650.00

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

ARBITRATION PANEL

Daniel E. Gulden, Esq.	-	Public Arbitrator, Presiding Chair
Irving M. Shlesinger	-	Public Arbitrator
S. Bennett Whipple	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

_____/S/_____
Daniel E. Gulden, Esq.

Signature Date

Public Arbitrator, Presiding Chair

_____/S/_____
Irving M. Shlesinger
Public Arbitrator

Signature Date

_____/S/_____
S. Bennett Whipple
Non-Public Arbitrator

Signature Date

September 16, 2003
Date of Service (For NASD Dispute Resolution office use only)

The Panel has assessed the total forum fees of \$13,650.00 to Respondent Morgan.

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FEE SUMMARY

Claimant is solely liable for:

Initial Filing Fee	= \$500.00
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Total Fees	= \$500.00
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Less payments	= \$500.00
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Balance Due NASD Dispute Resolution	= \$0.00
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Respondent Morgan is solely liable for:

Member Fees	= \$8,550.00
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Forum Fees	= \$13,650.00
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Total Fees	= \$22,200.00
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Less payments	= \$8,550.00
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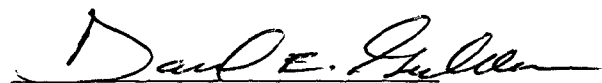
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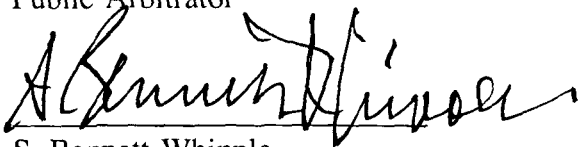
Concurring Arbitrators' Signatures



Daniel E. Gulden, Esq.
Public Arbitrator, Presiding Chair

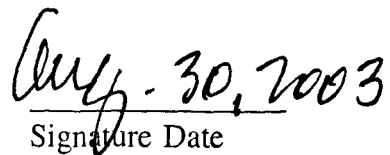
9/5/03
Signature Date

Irving M. Shlesinger
Public Arbitrator



S. Bennett Whipple
Non-Public Arbitrator

Signature Date



Signature Date

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