

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Conservator Estate of Alison E. Cohen, Claimant v. Morgan Stanley DW Inc. and Perl J. Wonn, III, Respondents

Case Number: 02-04715

Hearing Site: San Diego, California

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

REPRESENTATION OF PARTIES

For Claimant:

Ann and Nelson Cohen
Co-Conservators
La Jolla, California

For Respondents:

Todd E. Gordinier, Esq.
Stradling Yocca Carlson & Rauth, PC
Newport Beach, California

CASE INFORMATION

Statement of Claim filed: August 8, 2002

Alison E. Cohen's Uniform Submission Agreement filed: August 8, 2002

Joint Statement of Answer filed by Respondents: October 22, 2002

Respondent Morgan Stanley DW Inc.'s Uniform Submission Agreement received:
October 23, 2002

Respondent Perl J. Wonn, III's Uniform Submission Agreement received on or about:
October 22, 2002

CASE SUMMARY

Claimant alleged negligence, fraud, unauthorized trading, unsuitable securities recommendations, breach of fiduciary duty, failure to supervise, and violations of the rules of the NASD. The dispute involved, among other unspecified securities, the purchase and or sale of MSDW Technology Fund B, Senior High Income PTF Inc., Unit EFI Baby Boom Economy Ad-Growth 99A, Unit EIF Equity Concept Healthcare Pharmaceutical and Biotech Port Series 5, Unit EIF Concept Series Teleglobal Ser 6, Unit First Trust E. Business Select, Unit MSDW Hi-Tech 35 Index 993, and Unit MSDW Select five index 99-5..

Respondents denied the allegations of wrongdoing set forth in the Claimant's Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

Claimant requested compensatory damages in the amount of \$97,482.67, lost opportunity damages, unspecified punitive damages, prejudgment interest, and costs, including attorney's fees.

Respondents requested dismissal of the Claimant's Statement of Claim in its entirety and costs. Additionally, Respondent Perl J. Wonn, III requested all reference to this matter be expunged from his CRD record.

OTHER ISSUES CONSIDERED AND DECIDED

On October 3, 2002, Claimant and Claimant's counsel signed a Waiver Agreement expressly waiving any and all rights and benefits under California Civil Code Section 1542 and the California Ethical Standards for Neutral Arbitrators.

Pursuant to the Code of Arbitration Procedure IM-10100, the waiver of the Claimant shall constitute and operate as a waiver for all member firms and associated persons (including terminated or otherwise inactive member firms or associated persons) against whom the Claim has been filed.

At the hearing, the Panel granted Claimant's oral Motion to Amend the Statement of Claim to change the Claimant in this matter from Alison E. Cohen to Conservator Estate of Alison E. Cohen.

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) Claimant's claims are denied in their entirety.
- 2) The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Perl J. Wonn, III's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 99-09, Respondent Perl J. Wonn, III must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.
- 3) The parties shall bear their respective costs, including attorney's fees.
- 4) All other relief requested and not expressly granted is denied.

FEES

Pursuant to the Code of Arbitration Procedure ("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	= \$ 225.00
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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 DW Inc. a is a party and the following fees are assessed:

Member Surcharge	= \$ 1,100.00
Pre-Hearing Process Fee	= \$ 750.00
<u>Hearing Process Fee</u>	<u>= \$ 1,700.00</u>
Total Member Fees	= \$ 3,550.00

Adjournment Fees

The following adjournment fees are assessed:

March 29, 2004 – March 31, 2004,
adjournment requested by Claimant = \$ 750.00

The Panel assessed \$750.00 of the adjournment fee to Claimant.

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:

Two (2) Pre-hearing conference sessions with a single arbitrator @ \$450.00/session = \$ 900.00

Pre-hearing conferences:	August 29, 2003	1 session
	December 9, 2003	1 session

Four (4) Pre-hearing conference sessions with the Panel @ \$750.00/session = \$ 3,000.00

Pre-hearing conferences:	January 7, 2003	1 session
	July 25, 2003	1 session
	March 26, 2004	1 session
	April 2, 2004	1 session

Four (4) Hearing sessions @ \$750.00/session = \$ 3,000.00

Hearings:	July 7, 2004	2 sessions
	July 8, 2004	2 sessions

Total Forum Fees = \$ 6,900.00

The Panel assessed \$6,900.00 of the forum fees to Respondent Morgan Stanley Dean Witter.

Fee Summary

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

Initial Filing Fee	= \$ 225.00
<u>Adjournment Fee</u>	= \$ 750.00
Total Fees	= \$ 975.00
<u>Less payments</u>	= \$(1,725.00)
Refund Due Claimant	= \$(750.00)

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

Member Fees	= \$ 3,550.00
<u>Forum Fees</u>	= \$ 6,900.00
Total Fees	= \$10,450.00
<u>Less payments</u>	= \$(4,050.00)
Balance Due NASD Dispute Resolution	= \$ 6,400.00

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

Mandel E. Himmelstein, Esq.

Public Arbitrator, Presiding Chair

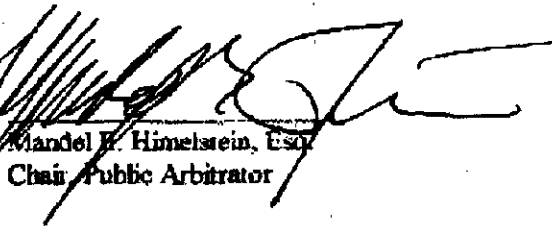
Charles B. Shryock

Public Arbitrator

Lisa M. Roth

Non-Public Arbitrator

Concurring Arbitrators' Signatures



Mandel E. Himmelstein, Esq.
Chair, Public Arbitrator

7/15/04
Signature Date

Charles B. Shryock
Public Arbitrator

Signature Date

Lisa M. Roth
Non-Public Arbitrator

Signature Date

7/16/04
Date of Service

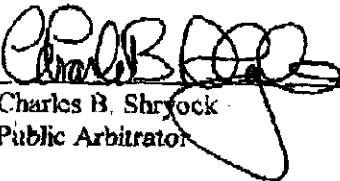
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Mandel E. Himmelstein, Esq.	-	Public Arbitrator, Presiding Chair
Charles B. Shryock	-	Public Arbitrator
Lisa M. Roth	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

Mandel E. Himmelstein, Esq.
Chair, Public Arbitrator

Signature Date


Charles B. Shryock
Public Arbitrator

7/18/04
Signature Date

Lisa M. Roth
Non-Public Arbitrator

Signature Date

7/16/04
Date of Service

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Charles B. Shryock	-	Public Arbitrator
Lisa M. Roth	-	Non-Public Arbitrator

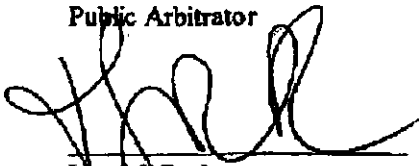
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Mandel E. Himmelstein, Esq.
Chair, Public Arbitrator

Signature Date

Charles B. Shryock
Public Arbitrator

Signature Date



Lisa M. Roth
Non-Public Arbitrator

7/16/04

Signature Date

7/16/04

Date of Service