

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Jon T. Rossiter, Claimant v. Morgan Stanley DW Inc., Prudential Securities Incorporated and John J. Lawrence, Respondents

Case Number: 02-05129

Hearing Site: Los Angeles, California

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

REPRESENTATION OF PARTIES

For Claimant:

Irving M. Einhorn, Esq.
Law Offices of Irving M.
Einhorn
Santa Monica, California

For Respondent Morgan Stanley DW Inc.

Kevin K. Fitzgerald, Esq.
Jones Bell Abbott Fleming &
Fitzgerald
Los Angeles, California

For Respondents Prudential Securities
Incorporated and John J. Lawrence, III

Terry Ross, Esq.
Keesal, Young & Logan
Long Beach, California

CASE INFORMATION

Statement of Claim filed: August 29, 2002

Claimant's Uniform Submission Agreement signed: August 28, 2002

Statement of Answer filed by Respondent Morgan Stanley DW Inc.: December 2, 2002

Respondent Morgan Stanley DW Inc.'s Uniform Submission Agreement signed:
November 29, 2002

Joint Statement of Answer filed by Respondents Prudential Securities Incorporated and John J. Lawrence, III: November 25, 2002

Respondent Prudential Securities Incorporated's Uniform Submission Agreement signed:
February 18, 2003

Respondent John J. Lawrence, III's Uniform Submission Agreement signed: February 12, 2003

CASE SUMMARY

In the Statement of Claim, Claimant alleged breach of fiduciary duty, intentional misrepresentation, fraud, breach of contract, breach of covenant of good faith and fair dealing and negligence involving investments in various mutual funds.

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

RELIEF REQUESTED

Claimant requested actual damages in the sum of \$135,000, punitive damages in the sum of \$250,000.00, costs and attorney's fees.

Respondents requested dismissal of the Claimant's Statement of Claim in its entirety and costs.

OTHER ISSUES CONSIDERED AND DECIDED

At the hearing, and after the conclusion of the Claimant's case, the Panel granted Respondent Morgan Stanley DW Inc.'s motion to dismiss Claimant's Statement of Claim against Respondent Morgan Stanley DW Inc. At that time, the panel also granted Respondent John J. Lawrence, III's motion to dismiss Claimant's Statement of Claim against Respondent John J. Lawrence, III for the time during which he was employed to Morgan Stanley DW Inc.

On October 7, 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.

On February 3, 2003, Respondent Morgan Stanley DW Inc.'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.

On November 1, 2002, Respondents Prudential Securities Incorporated and John J. Lawrence, III'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.

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 parties shall bear their respective costs, including attorney's fees.
- 3) All other relief requested and not expressly granted is denied.
- 4) The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent John J. Lawrence, III registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 99-09 and 99-54, Respondent John J. Lawrence, III must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

FEES

Pursuant to 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 DW Inc. is a party and the following fees are assessed:

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

Accordingly, the member firm Prudential Securities Incorporated is a party and the following fees are assessed:

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

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 Arbitrator/Chair. The following fees are assessed:

(1) Pre-hearing conference session with the Panel @ \$1,125.00/session	= \$1,125.00
Pre-hearing conference: April 28, 2003	1 session
(5) Hearing sessions @ \$1,125.00/session	= \$5,625.00
Hearings: December 9, 2003	2 sessions
December 10, 2003	2 sessions
December 11, 2003	1 session
Total Forum Fees	= \$ 6,750.00

1. The Panel assessed \$3,375.00 of the forum fees to Claimant Jon T. Rossiter.
2. The Panel assessed \$1,687.00 of the forum fees to Respondent Morgan Stanley DW Inc.
3. The Panel assessed \$1,688.00 of the forum fees to Respondent Prudential Securities Incorporated.

Fee Summary

1. Claimant Jon T. Rossiter is charged with the following fees and costs:	
Initial Filing Fee	= \$ 300.00
Forum Fees	= \$ 3,375.00
Total Fees	= \$ 3,675.00
Less payments	= \$(1,425.00)
Balance Due NASD Dispute Resolution	= \$ 2,250.00

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

Member Fees	= \$ 5,200.00
Forum Fees	= \$ 1,687.00
Total Fees	= \$ 6,887.00
Less payments	= \$(7,950.00)
Refund Due Respondent	= \$(1,063.00)

3. Respondent Prudential Securities Incorporated is charged with the following fees and costs:

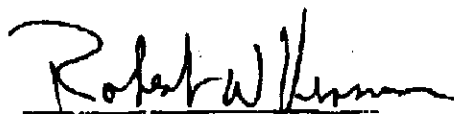
Member Fees	= \$ 5,200.00
Forum Fees	= \$ 1,688.00
Total Fees	= \$ 6,888.00
Less Payments	= \$(5,200.00)
Balance Due NASD Dispute Resolution	= \$1,688.00

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

Robert W. Vernon, CPA	-	Public Arbitrator, Presiding Chair
Cathleen M. Cobb	-	Public Arbitrator
Roberta Haft	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures



Robert W. Vernon, CPA
Chair, Public Arbitrator

12/18/03
Signature Date

Cathleen M. Cobb
Public Arbitrator

Signature Date

Roberta Haft
Non-Public Arbitrator

Signature Date

Date of Service

ARBITRATION PANEL

Robert W. Vernon, CPA	-	Public Arbitrator, Presiding Chair
Cathleen M. Cobb	-	Public Arbitrator
Roberta Haft	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

Robert W. Vernon, CPA
Chair, Public Arbitrator

Signature Date

Cathleen M. Cobb
Cathleen M. Cobb
Public Arbitrator

Dec. 19, 2003
Signature Date

Roberta Haft
Non-Public Arbitrator

Signature Date

December 22, 2003
Date of Service

ARBITRATION PANEL

Robert W. Vernon, CPA	-	Public Arbitrator, Presiding Chair
Cathleen M. Cobb	-	Public Arbitrator
Roberta Haft	-	Non-Public Arbitrator

Consenting Arbitrators' Signatures

Robert W. Vernon, CPA
Chair, Public Arbitrator

Signature Date

Cathleen M. Cobb
Public Arbitrator

Signature Date


Roberta Haft
Non-Public Arbitrator

12-17-03
Signature Date

Date of Service