

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimants
Zelmar and Barbara Harrison

Case Number: 02-05639

Name of the Respondents
Morgan Stanley DW Inc.
Scott Seig
Brown and Company Securities Corporation

Hearing Site: Philadelphia, PA

REPRESENTATION OF PARTIES

Claimants, Zelmar and Barbara Harrison, hereinafter collectively referred to as "Claimants", represented themselves at the hearing.

Respondents, Morgan Stanley DW Inc. ("Morgan Stanley") and Scott Seig ("Seig"), were represented by Brett D. Sherman, Esq., Vice President and Senior Counsel, Morgan Stanley DW Inc., New York, New York.

Respondent, Brown and Company Securities Corporation ("Brown and Company"), was represented by Bruce D. Levin, Esq., Bernkopf, Goodman & Baseman, LLP, Boston, Massachusetts.

CASE INFORMATION

Statement of Claim filed on: September 19, 2002.

Claimants signed the Uniform Submission Agreement on: September 19, 2002.

Respondent Brown and Company filed an Answer and Motion to Dismiss on: November 20, 2002.

A representative of Respondent Brown and Company signed the Uniform Submission Agreement on: October 4, 2002.

Respondent Brown and Company filed an Amended Answer and Motion to Dismiss on: November 26, 2002.

Respondents Morgan Stanley and Seig filed a Statement of Answer on: November 24, 2002.

Brett D. Sherman, Vice-President and Senior Attorney to Respondent Morgan Stanley, signed the Uniform Agreement on: November 18, 2002.

Claimants filed an Objection to Respondent Brown and Company's Motion to Dismiss on: December 3, 2002.

Claimants filed a Motion of Objection to Dismiss on: December 4, 2002.

Respondent Brown and Company filed a Reply to the Response of Claimants to their Motion to Dismiss on: December 7, 2002.

Claimants filed an Answer to the Statement of Answer of Respondents Morgan Stanley and Seig on: December 17, 2002.

At the hearing on the merits, Respondent Morgan Stanley made an oral motion for a directed verdict.

At the hearing on the merits, Respondent Brown and Company made an oral motion to dismiss Claimants' claim.

CASE SUMMARY

Claimants asserted the following causes of action, among others: margin calls; negligence; failure to supervise; wrongful transfer; breach of fiduciary duty; misrepresentation; and, omission of facts. The causes of action relate to trading losses allegedly incurred due to the failure of funds to be transferred.

Unless specifically admitted in its Answer, Respondent Brown and Company denied the allegations made in the Statement of Claim and asserted the following defenses, among others: any losses suffered were not caused by Respondent Brown and Company; any trading that occurred was consistent with Claimants' express desires; failure to mitigate damages; any damages sustained were due to market conditions; and, contributory negligence.

Unless specifically admitted in their Answer, Respondents Morgan Stanley and Seig denied the allegations made in the Statement of Claim and asserted the following defenses, among others: failure to state a cause of action upon which relief may be granted; Claimants' own actions or inaction caused any alleged damages; failure to mitigate damages; and, Respondents Morgan Stanley and Seig could not have proximately caused Claimants' damages.

RELIEF REQUESTED

Claimants in their Statement of Claim requested:

Compensatory Damages	\$ 138,946.01
Punitive Damages	\$ 277,892.00
Other Costs	\$ 1,425.00

Respondent Brown and Company in its Statement of Answer requested that the Statement of Claim be dismissed and that it be awarded its costs, including forum fees and reasonable attorneys' fees.

Respondents Morgan Stanley and Seig in their Statement of Answer requested that the Statement of Claim be dismissed in its entirety, that they be awarded the costs and expenses of this arbitration, including reasonable attorneys' fees, and that the Arbitration Panel (the "Panel") award them any other such relief as is just and proper.

OTHER ISSUES CONSIDERED AND DECIDED

Respondent Seig did not file with NASD Dispute Resolution, a properly executed submission to

arbitration but is required to submit to arbitration pursuant to the Code and, having answered the claim, appeared and testified at the hearing, is bound by the determination of the Panel on all issues submitted.

Prior to the hearing, the Panel denied Respondent Brown and Company's Motion to Dismiss Claimants' claim.

At the hearing, the Panel denied Respondent Morgan Stanley's oral motion for a directed verdict.

At the hearing, the Panel denied Respondent Brown and Company's oral motion to dismiss Claimants' claim.

The parties have 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, the testimony and evidence presented at the hearing, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. That Claimants' claims are denied in their entirety;
2. That all claims for punitive damages are denied;
3. That the parties shall bear their respective costs, including attorneys' fees, except at Fees are specifically addressed below; and
4. That any and all relief not specifically addressed herein is denied in its entirety.

FEES

Pursuant to 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 = \$ 300.00

Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firms that employed the associated person(s) at the time of the events giving rise to the dispute. Accordingly, Respondents Brown and Company and Morgan Stanley are parties.

Respondent Brown and Company

Member surcharge	= \$ 1,700.00
Pre-hearing process fee	= \$ 750.00
<u>Hearing process fee</u>	<u>= \$ 2,750.00</u>
Total Member Fees	= \$ 5,200.00

Respondent Morgan Stanley

Member surcharge	= \$ 1,700.00
Pre-hearing process fee	= \$ 750.00
<u>Hearing process fee</u>	<u>= \$ 2,750.00</u>
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 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 a single arbitrator @ \$ 450.00	= \$ 450.00
Pre-hearing conference: July 14, 2003 1 session	

One (1) Pre-hearing session with Panel @ \$ 1,125.00	= \$ 1,125.00
Pre-hearing conference/s: April 21, 2003 1 session	

Two (2) Hearing sessions @ \$ 1,125.00	= \$ 2,250.00
<u>Hearing Date: September 9, 2003 2 sessions</u>	
Total Forum Fees	= \$ 3,825.00

1. The Panel has assessed \$ 2,550.00 of the forum fees to Claimants jointly and severally.
2. The Panel has assessed \$ 1,275.00 of the forum fees to Respondent Morgan Stanley.

FEE SUMMARY

1. Claimants are jointly and severally assessed and shall pay:

Initial Filing Fee	= \$ 300.00
<u>Forum Fees</u>	<u>= \$ 2,550.00</u>
Total Fees	= \$ 2,850.00
<u>Less payments</u>	<u>= \$ 1,425.00</u>
Balance Due NASD Dispute Resolution	= \$ 1,425.00

2. Respondent, Brown and Company, is assessed and shall pay:

<u>Member Fees</u>	<u>= \$ 5,200.00</u>
Total Fees	= \$ 5,200.00
<u>Less payments</u>	<u>= \$ 5,200.00</u>
Balance Due NASD Dispute Resolution	= \$ 00.00

3. Respondent, Morgan Stanley, is assessed and shall pay:

Member Fees	= \$ 5,200.00
Forum Fees	= \$ 1,275.00
Total Fees	= \$ 6,475.00
Less payments	= \$ 5,200.00
Balance Due NASD Dispute Resolution	= \$ 1,275.00

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

ARBITRATION PANEL


John Lovering Truscott, Esq.	-	Public Arbitrator, Presiding Chairperson
Gladys Gershenfeld	-	Public Arbitrator, Panelist
Michael J. Mazzafro	-	Non-Public Arbitrator, Panelist

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Concurring Arbitrators' Signatures



John Lovering Truscott, Esq.

Public Arbitrator, Presiding Chairperson



Signature Date



Gladys Gershenfeld

Public Arbitrator, Panelist



Signature Date



Michael J. Mazzafro

Non-Public Arbitrator, Panelist



Signature Date



Date of Service (For NASD Dispute Resolution office use only)

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Concurring Arbitrators' Signatures

John Lovering Truscott, Esq.

Public Arbitrator, Presiding Chairperson

Signature Date

Gladys Gershenfeld

Gladys Gershenfeld

Public Arbitrator, Panelist

10/2/03

Signature Date

Michael J. Mazzafrò

Non-Public Arbitrator, Panelist

Signature Date

October 3, 2003

Date of Service (For NASD Dispute Resolution office use only)

Oct-01-03 02:16pm From-NASD DISPUTE RESOLUTION
NASD Dispute Resolution
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202-728-6952

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Concurring Arbitrators' Signatures

John Lovering Truscott, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

Gladys Gershenfeld
Public Arbitrator, Panelist

Signature Date



Michael J. Mazza
Non-Public Arbitrator, Panelist

10-1-03
Signature Date

October 3, 2003
Date of Service (For NASD Dispute Resolution office use only)