

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

The Olsen Family Trust DTD 01/05/96, Claimant vs. Morgan Stanley DW Inc. and Richard B. French, Respondents

Case Number: 02-07203

Hearing Site: Los Angeles, California

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

REPRESENTATION OF PARTIES

For Claimant:

William S. Bonnheim, Esq.
William S. Bonnheim, PLC
Palm Desert, California

For Respondents:

Ronald E. Wood, Esq.
Morgan Stanley DW Inc.
Los Angeles, California

CASE INFORMATION

Statement of Claim filed: November 26, 2002

Claimant's Uniform Submission Agreement signed: November 25, 2002

Joint Statement of Answer filed by Respondents: January 27, 2003

Respondent Morgan Stanley DW Inc.'s Uniform Submission Agreement signed:
December 31, 2003

Respondent Richard B. French's Uniform Submission Agreement signed: January 8, 2003

CASE SUMMARY

Claimant alleged breach of fiduciary duty, unsuitability, constructive fraud, violation of federal and state securities laws and of NASD and NYSE Rules, elder abuse, unfair or deceptive practices against senior citizens, and failure to supervise. Claimant's allegations involved the use of margin to complete transactions in unspecified high-risk securities.

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

RELIEF REQUESTED

Claimant requested \$112,712.95 in compensatory damages, unspecified lost opportunity costs, treble damages pursuant to California Civil Code §3345 in the amount of \$225,425.90, unspecified interest, and reimbursement of costs, including attorney's fees.

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

OTHER ISSUES CONSIDERED AND DECIDED

On March 18, 2003, Clifford C. Olsen and Flora C. Olsen, Trustees of the Olsen Family Trust DTD 01/05/96, and their 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 December 30, 2002, Respondent Morgan Stanley DW Inc.'s counsel signed a Waiver Agreement on its behalf expressly waiving any and all rights and benefits under California Civil Code Section 1542 and the California Ethical Standards for Neutral Arbitrators.

On April 15, 2003, Respondent Richard B. French's counsel signed a Waiver Agreement on his behalf expressly waiving any and all rights and benefits under California Civil Code Section 1542 and the California Ethical Standards for Neutral Arbitrators.

On October 9, 2003, Claimant made a Motion to Amend the Statement of Claim. After due deliberation, the Panel denied the motion.

On February 5, 2004, Respondents made a Motion to Dismiss Claimant's Statement of Claim. After due deliberation, the Panel denied the motion.

On May 18, 2004, Respondents made a Motion to Dismiss Claimant's claims in their entirety. After due deliberation, the Panel denied the motion.

After presentation of Claimant's case in full and before presentation of their defense, Respondents made a motion to dismiss Claimant's claims in their entirety based on Claimant's failure to present evidence sufficient to sustain their allegations. After due deliberation, the Panel granted the motion.

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 Richard B. French's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 99-09, Respondent Richard B. French 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 (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

Adjournment Fees

The following adjournment fees are assessed:

October 28-30, 2003 adjournment requested by the Parties	= \$1,125.00
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The Panel assessed \$562.50 of the Adjournment fee to Claimant.

The Panel assessed \$562.50 of the Adjournment fee jointly and severally to Respondents.

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 session with the Panel @ \$1,125.00/session	= \$2,250.00
Pre-hearing conference: April 15, 2003	1 session
February 2, 2004	1 session

Five (5) Hearing sessions @ \$1,125.00/session		= \$5,625.00
Hearings:	May 18, 2004	2 sessions
	May 19, 2004	2 sessions
	June 17, 2004	1 sessions
Total Forum Fees		= \$7,875.00

The Panel assessed the entire balance of the forum fees, in the amount of \$7,875.00 to Claimant.

Fee Summary

1. Claimant The Olsen Family Trust is charged with the following fees and costs:

Initial Filing Fee	= \$ 300.00
Adjournment Fee	= \$ 562.50
Forum Fees	= \$ 7,875.00
Total Fees	= \$ 8,737.50
Less payments	= \$(1,425.00)
Balance Due NASD Dispute Resolution	= \$ 7,312.50

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

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

4. Respondents Morgan Stanley DW Inc. and Richard B. French are charged jointly and severally with the following fees and costs:

Adjournment Fee	= \$ 562.50
Less payment by Morgan Stanley DW, Inc.	= \$ (562.50)
Balance Due NASD Dispute Resolution	= \$ 0.00

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

Carol M. Matheis, Esq.
G. Timothy Haight, DBA
Oren Peretz

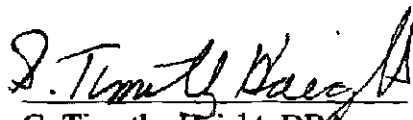
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Public Arbitrator, Presiding Chair
Public Arbitrator
Non-Public Arbitrator

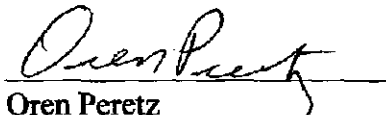
Concurring Arbitrators' Signatures


Carol M. Matheis, Esq.
Chair, Public Arbitrator

6/17/04
Signature Date


G. Timothy Haight, DBA
Public Arbitrator

6/17/04
Signature Date


Oren Peretz
Non-Public Arbitrator

6/17/04
Signature Date

6/17/04
Date of Service