

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Daniel B. Greenberg and Daniel B. Greenberg IRA (Claimants) v. Morgan Stanley Dean Witter, Inc. and Thomas Tartaglia (Respondents)

Case Number: 02-07628

Hearing Site: New York, New York

Nature of the Dispute: Customers vs. Member and Associated Person.

REPRESENTATION OF PARTIES

Claimants Daniel B. Greenberg ("Greenberg") and Daniel B. Greenberg IRA ("Greenberg IRA") hereinafter collectively referred to as "Claimants": Kim S. Juhase, Esq., Novak & Juhase, Roseland, NJ.

Respondents Morgan Stanley DW, Inc. ("MSDW") and Thomas Tartaglia ("Tartaglia") hereinafter collectively referred to as "Respondents": Victor H. Sigoura, Esq., Greenberg Traurig, New York, NY. Previously represented by: Edward Larkin, Esq., Morgan Stanley, New York, NY.

CASE INFORMATION

Statement of Claim filed on or about: December 17, 2002.

Claimants signed the Uniform Submission Agreement: December 1, 2002.

Joint Statement of Answer and Motion to Dismiss filed by Respondents on or about: March 24, 2003.

MSDW did not sign the Uniform Submission Agreement.

Tartaglia did not sign the Uniform Submission Agreement.

CASE SUMMARY

Claimants asserted the following causes of action: breach of fiduciary duty; and violation of Consumer Anti-Fraud Statute. Claimants' claim involved unspecified securities.

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

RELIEF REQUESTED

Claimants requested out-of-pocket losses in the amount of \$327,000.00 and attorneys' fees pursuant to GBL §349(h).

Respondents requested that the claim be dismissed and that the costs of the proceeding be assessed against Claimants.

OTHER ISSUES CONSIDERED AND DECIDED

Respondents did not file with NASD Dispute Resolution properly executed Uniform Submission Agreements but are required to submit to arbitration pursuant to the Code and, having answered the claim, and appeared and testified at the hearing, are bound by the determination of the Panel on all issues submitted.

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. Claimants' claims are dismissed in their entirety.
2. Any and all relief not specifically addressed herein is denied.

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
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Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm that employed the associated person at the time of the events giving rise to the dispute. Accordingly, Morgan Stanley DW, Inc. is a party.

Member surcharge	= \$1,700.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$2,750.00

Forum Fees and Assessments

The Panel has assessed forum fees for each session conducted. A session is any meeting between the parties and the arbitrators, including a pre-hearing conference with the arbitrators, that lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) Pre-hearing session with Panel @ \$1,125.00	= \$1,125.00
Pre-hearing conference: May 29, 2003 1 session	
Six (6) Hearing sessions @ \$1,125.00	= \$6,750.00
Hearing Dates: October 1, 2003 2 sessions	
October 2, 2003 2 sessions	
February 5, 2004 2 sessions	
Total Forum Fees	= \$7,875.00

1. The Panel has assessed \$1,968.75 of the forum fees against Claimant Greenberg.
2. The Panel has assessed \$1,968.75 of the forum fees against Claimant Greenberg IRA.
3. The Panel has assessed \$1,968.75 of the forum fees against Respondent MSDW.
4. The Panel has assessed \$1,968.75 of the forum fees against Respondent Tartaglia.

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 not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

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|---|-----------|
| 1. Claimants requested duplicates of cassette tapes | = \$90.00 |
| 2. Respondents requested photocopies | = \$ 5.25 |
| 3. Respondents requested duplicates of cassette tapes | = \$90.00 |

Fee Summary

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|--|--------------|
| 1. Claimants are jointly and severally liable for: | |
| Initial Filing Fee | = \$ 300.00 |
| Administrative Costs | = \$ 90.00 |
| Total Fees | = \$ 390.00 |
| Less payments | = \$1,515.00 |
| Balance Due NASD Dispute Resolution | = \$ 0.00 |
| 2. Claimant Greenberg is solely liable for: | |
| Forum Fees | = \$1,968.75 |
| Total Fees | = \$1,968.75 |
| Less payments | = \$ 562.50 |
| Balance Due NASD Dispute Resolution | = \$1,406.25 |

3. Claimant Greenberg IRA is solely liable for:

<u>Forum Fees</u>	= \$1,968.75
<u>Total Fees</u>	= \$1,968.75
<u>Less payments</u>	= \$ 562.50
Balance Due NASD Dispute Resolution	= \$1,406.25

4. MSDW is solely liable for:

<u>Member Fees</u>	= \$5,200.00
<u>Forum Fees</u>	= \$1,968.75
<u>Total Fees</u>	= \$7,168.75
<u>Less payments</u>	= \$5,200.00
Balance Due NASD Dispute Resolution	= \$1,968.75

5. Tartaglia is solely liable for:

<u>Forum Fees</u>	= \$1,968.75
<u>Total Fees</u>	= \$1,968.75
<u>Less payments</u>	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$1,968.75

6. Respondents are jointly and severally liable for:

<u>Administrative Costs</u>	= \$ 95.25
<u>Total Fees</u>	= \$ 95.25
<u>Less payments</u>	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 95.25

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

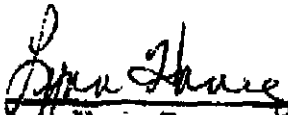
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ARBITRATION PANEL

Lynn Hanig, Esq.	•	Public Arbitrator, Presiding Chair
Sherri L. Hughes, Esq.	-	Public Arbitrator
John E. Frary, Esq.	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

I, the undersigned arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument, which is my award.



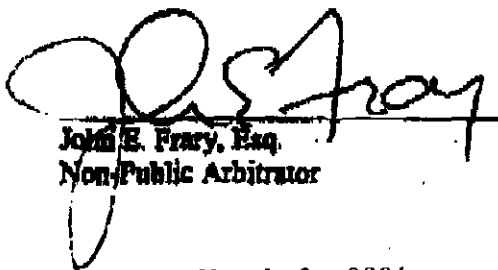
Lynn Hanig, Esq.
Public Arbitrator, Presiding Chairperson

3/1/2004

Signature Date

Sherri L. Hughes, Esq.
Public Arbitrator

Signature Date



John E. Frary, Esq.
Non-Public Arbitrator

3/1/04

Signature Date

March 3, 2004

Date of Service (For NASD Dispute Resolution use only)

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Arbitration No. 02-7628
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ARBITRATION PANEL

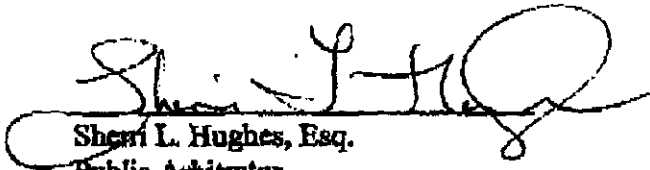
Lynn Hanig, Esq.	-	Public Arbitrator, Presiding Chair
Sherri L. Hughes, Esq.	-	Public Arbitrator
John E. Frary, Esq.	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

I, the undersigned arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument, which is my award.

Lynn Hanig, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date



Sherri L. Hughes, Esq.
Public Arbitrator

March 2004

Signature Date

John E. Frary, Esq.
Non-Public Arbitrator

Signature Date

March 3, 2004

Date of Service (For NASD Dispute Resolution use only)