

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Edward Franco (Claimant) vs. Morgan Stanley Dean Witter f/k/a Dean Witter Reynolds Inc. and William Flowers (Respondents)

Case Number: 03-00144

Hearing Site: New York, New York

Nature of Dispute: Customer vs. Member and Associated Person

REPRESENTATION OF PARTIES

Claimant, Edward Franco ("Franco") hereinafter referred to as "Claimant": Adolph D. Seltzer, Esq., New York, New York.

Respondents Morgan Stanley Dean Witter f/k/a Dean Witter Reynolds Inc. ("Morgan") and William Flowers ("Flowers") hereinafter collectively referred to as "Respondents": Victor Olds, Esq., Morgan Stanley DW Inc., New York, New York.

CASE INFORMATION

Statement of Claim filed on or about: January 6, 2003.

Claimant signed the Uniform Submission Agreement: January 6, 2003.

Joint Statement of Answer filed by Respondents on or about: March 6, 2003.

Respondents signed the Uniform Submission Agreement: March 26, 2003.

CASE SUMMARY

Claimant asserted the following causes of action: suitability; violation of NYSE & NASD Rules; negligence; breach of fiduciary duty; failure to supervise and violation of the Securities Exchange Act. Claimants' claim involved options, common stock, and mutual funds.

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

RELIEF REQUESTED

Claimant requested Respondents to pay compensatory damages of \$133,386.00 together with interest from July 1, 1998; punitive damages to be determined by the Panel; damages based upon pain and suffering to be determined by Panel; costs and disbursements of this proceeding, and reasonable attorneys fees; such other and further relief as may be just and proper.

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Respondents requested Claimants' claim be dismissed in its entirety; grant costs and expenses of this arbitration; and such other and further relief as is just and proper.

OTHER ISSUES CONSIDERED AND DECIDED

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. Respondents are jointly and severally liable for and shall pay to Claimant the sum of \$39,332.00 as compensatory damages plus interest at the rate of 9% per annum accruing from thirty days after the date of award until payment of this award.
2. Respondents are jointly and severally liable for and shall pay to Claimant the sum of \$300.00, to reimburse Claimant for the filing fee previously paid to NASD Dispute Resolution.
3. 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 firms that employed the associated persons at the time of the events giving rise to the dispute. Accordingly, Morgan Stanley Dean Witter f/k/a Dean Witter Reynolds Inc. is a party.

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

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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 Date: June 23, 2003	1 session	
Six (6) Hearing sessions with Panel @ \$1,125.00		= \$6,750.00
Hearing Dates: November 10, 2003	2 sessions	
November 11, 2003	2 sessions	
November 12, 2003	2 sessions	
Total Forum Fees		= \$7,875.00

1. The Panel has assessed \$7,875.00 of the forum fees jointly and severally against Respondents.

Fee Summary

1. Claimant is solely liable for:

<u>Initial Filing Fee</u>	= \$ 300.00
Total Fees	= \$ 300.00
<u>Less payments</u>	= \$ 1,425.00
Refund Due	= \$ 1,125.00

As stated in the "Award" section above, Respondents are jointly and severally liable for and shall reimburse Claimant for the \$300.00 filing fee.

2. Morgan is solely liable for:

<u>Member Fees</u>	= \$ 5,200.00
Total Fees	= \$ 5,200.00
<u>Less payments</u>	= \$ 5,200.00
Balance Due NASD Dispute Resolution	= \$ 0.00

4. Respondents Morgan and Flowers are jointly and severally liable for:

<u>Forum Fees</u>	= \$7,875.00
Total Fees	= \$7,875.00
<u>Less payments</u>	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$7,875.00

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

Joanne Barak	-	Public Arbitrator, Presiding Chair
James T. Meyer, Esq.	-	Public Arbitrator
Harry D. Frisch, 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.

Joanne Barak
Joanne Barak
Public Arbitrator, Presiding Chairperson

12/12/03
Signature Date

James T. Meyer, Esq.
James T. Meyer, Esq.
Public Arbitrator

Signature Date

Harry D. Frisch, Esq.
Harry D. Frisch, Esq.
Non-Public Arbitrator

Signature Date

December 4, 2003

Date of Service (For NASD Dispute Resolution use only)

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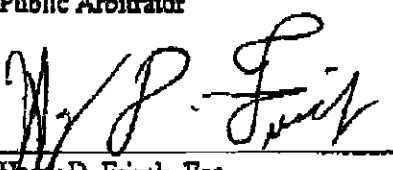
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