

**Stipulated Award
NASD Dispute Resolution**

In the Matter of the Arbitration Between:

Names of the Claimants

Julio Prieto, Sr. and Juanita Prieto

Case Number: 03-00354

(Consolidated with 02-07216)

Names of the Respondents

Morgan Stanley Dean Witter, Inc. and
Antoni Lucas

Hearing Site: Boca Raton, Florida

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

In the Matter of the Arbitration Between:

Names of the Claimants

Julio Prieto, Jr. and Deanne Prieto

Case Number: 02-07216

(Consolidated with 03-00354)

Names of the Respondents

Morgan Stanley Dean Witter, Inc. and
Antoni Lucas

Hearing Site: Boca Raton, Florida

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

REPRESENTATION OF PARTIES

For Julio Prieto, Sr. ("Julio Sr."), Juanita Prieto ("Juanita"), Julio Prieto, Jr. ("Julio Jr.") and Deanne Prieto ("Deanne"), hereinafter collectively referred to as "Claimants": Russell C. Silverglate, Esq., Dickenson Murphy Rex & Sloan, Boca Raton, Florida and Lawrence J. McGuinness, Esq., Lawrence J. McGuinness, P.A., Miami, Florida.

For Morgan Stanley Dean Witter, Inc. ("MSDW") and Antoni Lucas ("Lucas"), hereinafter collectively referred to as Respondents: Peter W. Homer, Esq. and Brian A. Briz, Esq., Homer & Bonner, P.A., Miami, Florida.

CASE INFORMATION

The following pleadings were filed in **Case Number 03-00354**:

Statement of Claim filed by Claimants Julio Sr. and Juanita on or about: January 14, 2003.

Claimants Julio Sr. and Juanita signed the Uniform Submission Agreement: January 9, 2003.

Answer and Defenses of Respondents filed on or about: March 18, 2003.

Respondent MSDW signed the Uniform Submission Agreement: April 4, 2003.

Respondent Lucas signed the Uniform Submission Agreement: April 14, 2003.

The following pleadings were filed in **Case Number 02-07216**:

Statement of Claim filed by Claimants Julio Jr. and Deanne on or about: November 27, 2002.

Claimants Julio Jr. and Deanne signed, but did not date, the Uniform Submission Agreement.

Answer and Defenses of Respondents filed on or about: March 18, 2003.

Respondent MSDW signed the Uniform Submission Agreement: April 25, 2003.

Respondent Lucas did not file an executed Uniform Submission Agreement.

CASE SUMMARY

In Case Numbers 03-00354 and 02-07216, Claimants asserted the following causes of action: (1) Respondents engaged in excessive account activity; (2) Respondents' investment recommendations were unsuitable; (3) Respondents breached their fiduciary duties; (4) Respondents engaged in unauthorized trading; (5) Respondents acted fraudulently; (6) Respondents were negligent in the handling of Claimants' accounts; (7) Respondents breached the Customer Agreements; (8) Respondent MSDW failed to supervise; (9) Respondents made misrepresentations to Claimants; and, (10) Respondents violated Fla. Stat. §517.301. The causes of action relate to the purchase and sale of shares of unspecified technology stocks in Claimants' accounts.

In Case Numbers 03-00354 and 02-07216, unless specifically admitted in their Answers, Respondents denied the allegations made in the Statements of Claim and asserted various defenses and affirmative defenses.

RELIEF REQUESTED

In Case Number 03-00354, Claimants Julio Sr. and Juanita requested compensatory damages in the amount of \$253,213.42, disgorgement of commissions and fees in the amount of \$19,857.62, margin interest in the amount of \$34,549.94, pre-judgment interest, costs, attorneys' fees, punitive damages and any other relief deemed just and proper.

In Case Number 02-07216, Claimants Julio Jr. and Deanne requested compensatory damages in the amount of \$1,564,201.20, disgorgement of commissions and fees in the amount of \$53,878.88, advisory fees in the amount of \$160.00, margin interest in the amount of \$44,626.88, pre-judgment interest, costs, attorneys' fees, punitive damages and any other relief deemed just and proper.

In Case Numbers 03-00354 and 02-07216, Respondents requested that all claims against them be dismissed, that Respondents be awarded their costs, that Respondents be permitted to seek their fees in a court of law and that the Panel order expungement of this matter from Respondent Lucas' NASD Central Registration Depository ("CRD") records.

OTHER ISSUES CONSIDERED AND DECIDED

In Case Number 02-07216, Respondent Lucas did not file with NASD Dispute Resolution a properly executed submission to arbitration but is required to submit to arbitration pursuant to the NASD Code of Arbitration Procedure (the "Code") and, having answered the claim, is bound by the determinations of the Panel on all issues submitted.

On or about March 5, 2004, Claimants notified NASD Dispute Resolution that the claims against Respondent Lucas in Case Numbers 03-00354 and 02-07216 were withdrawn, with prejudice.

In Case Number 03-00354, on or about March 5, 2004, the parties submitted a Joint Stipulation to Consolidate Case Numbers 03-00354 and 02-07216. On or about March 10, 2004, the Panel issued an order granting the motion and designating Case Number 03-00354 as the "master" case.

On or about August 20, 2004, Claimants notified NASD Dispute Resolution that this consolidated matter had settled.

On or about September 14, 2004, the parties submitted a proposed Stipulated Award with a request that the Panel enter the Stipulated Award expunging this matter from the NASD CRD records of Respondent Lucas.

The parties have agreed that the Stipulated Award in this matter may be executed in counterpart copies.

AWARD

After considering the pleadings, the proposed Stipulated Award and the record in this matter, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

Claimants' claims for relief are dismissed, with prejudice.

Each party to bear its respective costs and attorneys' fees.

The Panel recommends the expungement of all references to Case Numbers 03-00354 and 02-7216 from Respondent Antoni Lucas' public and non-public registration records maintained by the NASD CRD, with the understanding that pursuant to NASD Notices to Members 99-09 and 99-54, Respondent Antoni Lucas must obtain confirmation from a court of competent jurisdiction before the NASD CRD will execute the expungement directive.

Any and all claims for relief not specifically addressed herein, including Claimants' requests for punitive damages and attorneys' fees, are denied, with prejudice.

FEES

Pursuant to the Code, the following fees are assessed in Case Number 03-00354:

Filing Fees

NASD 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 firm that employed the associated person at the time of the events giving rise to the dispute. In this matter, the member firm Morgan Stanley Dean Witter, Inc. is a party.

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

Adjournment Fees

Adjournment granted during these proceedings for which fees were assessed:

April 5-9, 2004, joint adjournment requested by all parties	= \$1,125.00
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The Panel has assessed \$562.50 of the adjournment fees jointly and severally to Claimants.
The Panel has assessed \$562.50 of the adjournment fees jointly and severally to Respondents.

Three-Day Cancellation Fees

Fees apply when a hearing on the merits is postponed or settled within three business days before the start of a scheduled hearing session:

No three-day cancellation fees were incurred in this matter.

Injunctive Relief Fees

Injunctive relief fees are assessed to each member or associated person who files for a temporary injunction in court. Parties in these cases are also assessed arbitrator travel expenses and costs when an arbitrator is required to travel outside his or her hearing location and additional arbitrator honoraria for the hearing for permanent injunction. These fees, except the injunctive relief surcharge, are assessed equally against each party unless otherwise directed by the Panel.

No injunctive relief fees were incurred in this matter.

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:

Two (2) Pre-hearing sessions with the Panel @ \$1,200.00	= \$2,400.00
Pre-hearing conference: July 10, 2003	1 session
November 29, 2004	1 session

Total Forum Fees	= \$2,400.00
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Pursuant to the agreement of the parties, the Panel has assessed \$600.00 of the forum fees jointly and severally to Claimants and \$600.00 of the forum fees to Respondent MSDW.

The Panel has assessed \$1,200.00 of the forum fees to Respondent Lucas.

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

No administrative costs were incurred in this matter.

Pursuant to the Code, the following fees are assessed in **Case Number 02-07216**:

Filing Fees

NASD will retain or collect the non-refundable filing fees for each claim:

Initial claim filing fee: = \$ 500.00

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. In this matter, the member firm Morgan Stanley Dean Witter, Inc. is a party.

Member surcharge: =\$2,800.00

Pre-hearing process fee: =\$ 750.00

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

No requests for adjournments were filed in this matter.

Three-Day Cancellation Fees

Fees apply when a hearing on the merits is postponed or settled within three business days before the start of a scheduled hearing session:

No three-day cancellation fees were incurred in this matter.

Injunctive Relief Fees

Injunctive relief fees are assessed to each member or associated person who files for a temporary injunction in court. Parties in these cases are also assessed arbitrator travel expenses and costs when an arbitrator is required to travel outside his or her hearing location and additional arbitrator honoraria for the hearing for permanent injunction. These fees, except the injunctive relief surcharge, are assessed equally against each party unless otherwise directed by the Panel.

No injunctive relief fees were incurred in this matter.

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:

No forum fees were incurred in this matter.

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

No administrative costs were incurred in this matter.

FEE SUMMARY

In Case Number 03-00354:

Claimants Julio Sr. and Juanita are jointly and severally liable for:

<u>Initial Filing Fee</u>	= \$ 300.00
<u>Total Fees</u>	= \$ 300.00
<u>Less payments</u>	= \$ 300.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Claimants Julio Sr., Juanita, Julio Jr. and Deanne are jointly and severally liable for:

<u>Adjournment Fees</u>	= \$ 562.50
<u>Forum Fees</u>	= \$ 600.00
<u>Total Fees</u>	= \$ 1,162.50
<u>Less payments</u>	= \$ 1,162.50
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondent MSDW is solely liable for:

<u>Forum Fees</u>	= \$ 600.00
<u>Member Fees</u>	= \$ 5,200.00
<u>Total Fees</u>	= \$ 5,800.00
<u>Less payments</u>	= \$ 5,800.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondent Lucas is solely liable for:

<u>Forum Fees</u>	= \$ 1,200.00
<u>Total Fees</u>	= \$ 1,200.00
<u>Less payments</u>	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 1,200.00

Respondents MSDW and Lucas are jointly and severally liable for:

<u>Adjournment Fees</u>	= \$ 562.50
Total Fees	= \$ 562.50
<u>Less payments</u>	= \$ 562.50
Balance Due NASD Dispute Resolution	= \$ 0.00

In Case Number 02-07216:

Claimants Julio Jr. and Deanne are jointly and severally liable for:

<u>Initial Filing Fee</u>	= \$ 500.00
Total Fees	= \$ 500.00
<u>Less payments</u>	= \$ 500.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondent MSDW is solely liable for:

<u>Member Fees</u>	= \$ 3,550.00
Total Fees	= \$ 3,550.00
<u>Less payments</u>	= \$ 3,550.00
Balance Due NASD Dispute Resolution	= \$ 0.00

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

ARBITRATION PANEL

Richard E. Conner, Esq.	-	Public Arbitrator, Presiding Chairperson
John E. Sutton	-	Public Arbitrator
Kathy N. Novick	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

/s/

12/03/04

Richard E. Conner, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

/s/

12/03/04

John E. Sutton
Public Arbitrator

Signature Date

Dissenting Arbitrator's Signature

/s/

12/10/04

Kathy N. Novick
Non-Public Arbitrator

Signature Date

12/17/04

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

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Concurring Arbitrators' Signatures

Richard E. Conner, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date



John E. Sutton
Public Arbitrator

3 DECEMBER 2004
Signature Date

Dissenting Arbitrator's Signature

Kathy N. Novick
Non-Public Arbitrator

Signature Date

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Concurring Arbitrators' Signatures



Richard E. Conner, Esq.
Public Arbitrator, Presiding Chairperson

12/03/2004
Signature Date

John E. Sutton
Public Arbitrator

Signature Date

Dissenting Arbitrator's Signature

Kathy N. Novick
Non-Public Arbitrator

Signature Date

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NASD Dispute Resolution
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Kelly
R/S

Concurring Arbitrators' Signatures

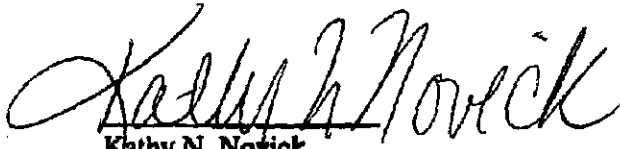
Richard E. Conner, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

John E. Sutton
Public Arbitrator

Signature Date

Dissenting Arbitrator's Signature


Kathy N. Novick
Non-Public Arbitrator

12-10-04
Signature Date

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

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