

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimant
Mark B. Lohman

Case Number: 03-00709

Names of the Respondents
Morgan Stanley Dean Witter
Dean Guntner

Hearing Site: Tampa, Florida

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

REPRESENTATION OF PARTIES

For Mark B. Lohman, hereinafter referred to as "Claimant": Stephen D. Spivey, Esq., Ocala, Florida.

For Respondents Morgan Stanley Dean Witter ("Morgan") and Dean Guntner ("Guntner"), hereinafter collectively referred to as "Respondents": Tucker H. Byrd, Esq. and Jennifer L. Tomsen, Esq., Greenberg Traurig, P.A., Orlando, Florida.

CASE INFORMATION

Statement of Claim filed on or about: January 24, 2003.

Claimant signed the Uniform Submission Agreement: December 18, 2002.

Statement of Answer filed by Respondents on or about: April 28, 2003.

Respondent Morgan signed the Uniform Submission Agreement: May 21, 2003.

Respondent Guntner signed the Uniform Submission Agreement: May 16, 2003.

CASE SUMMARY

Claimant asserted the following causes of action: violations of the Florida Securities Investor Protection Act, the Securities Act of 1933, the Securities Exchange Act of 1934, NASD rules and regulations, and Florida state and federal common law based upon fraud, misrepresentation, sale of unsuitable securities and negligent supervision. The causes of action relate to transactions in unspecified technology and communications stocks in Claimant's accounts.

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 judgment against Respondents, jointly and severally, for the sum of \$121,200.00, plus prejudgment interest at the legal rate thereon until paid, plus all costs associated with the bringing of this action, including a reasonable attorney's fee.

Respondents requested a dismissal of Claimant's claims in their entirety. Additionally,

Respondents put Claimant on notice of their intention to seek attorney's fees as prevailing parties under Chapter 517, Florida Statutes, from a court of competent jurisdiction.

OTHER ISSUES CONSIDERED AND DECIDED

The Panel heard testimony about Morgan's office in Ocala, Florida permitting the movement of assets from one financial advisor to another to enable the latter to qualify for a bonus. After the qualifying date, the assets were restored to the original financial advisor. The Panel finds this practice reprehensible.

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

AWARD

After considering the pleadings, the testimony and evidence presented at the hearing, and the post-hearing submissions (if any), the undersigned arbitrators (the "Panel") have decided in full and final resolution of the issues submitted for determination as follows:

Respondents Morgan and Guntner are liable on the claim of negligence and Respondent Morgan, solely, is liable on the claim of lack of supervision. Respondent Morgan is liable and shall pay to Claimant the sum of \$20,000.00, pre-judgment interest specifically excluded.

No part of the monetary award herein shall be paid by Respondent Guntner.

The parties' requests for attorneys' fees are denied.

Any and all claims for relief not specifically addressed herein, including Claimant's claims for relief pursuant to Chapter 517, Florida Statutes, are denied.

FEES

Pursuant to the NASD Code of Arbitration Procedure (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(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute. In this matter, the member firm is a party.

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

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

No requests for adjournments for which fees were assessed were granted 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 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 Pre-hearing session with the Panel @ \$1,125.00	= \$1,125.00
Pre-hearing conference: August 18, 2003 1 session	
Six Hearing sessions @ \$1,125.00	= \$6,750.00
Hearing Dates: March 2, 2004 2 sessions	
March 3, 2004 2 sessions	
March 4, 2004 2 sessions	
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Total Forum Fees	= \$7,875.00

The Panel has assessed \$3,937.50 of the forum fees to Claimant.

The Panel has assessed \$3,937.50 of the forum fees to Respondent Morgan.

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

Claimant is solely liable for:

Initial Filing Fee	= \$300.00
Forum Fees	= \$3,937.50

Total Fees	= \$4,237.50
Less payments	= \$1,425.00
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Balance Due NASD Dispute Resolution	= \$2,812.50

Respondent Morgan is solely liable for:

Member Fees	= \$5,200.00
Forum Fees	= \$3,937.50
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Total Fees	= \$9,137.50
Less payments	= \$5,200.00
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Balance Due NASD Dispute Resolution	= \$3,937.50

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

ARBITRATION PANEL

Muriel Desloovere, Esq.	-	Public Arbitrator, Presiding Chair
H. Steven Holtzman	-	Public Arbitrator
Andrew G. Fellios	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

_____/S/_____
Muriel Desloovere, Esq.
Public Arbitrator, Presiding Chair

Signature Date

_____/S/_____
H. Steven Holtzman
Public Arbitrator

Signature Date

_____/S/_____
Andrew G. Fellios
Non-Public Arbitrator

Signature Date

March 19, 2004
Date of Service (For NASD Dispute Resolution office use only)

Total Fees	= \$4,237.50
Less payments	= \$1,425.00
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Balance Due NASD Dispute Resolution	= \$2,812.50

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H. Steven Holtzman	-	Public Arbitrator
Andrew G. Fellios	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

Muriel Desloovere, Esq.
Public Arbitrator, Presiding Chair

Signature Date

H. Steven Holtzman
Public Arbitrator

3/10/04
Signature Date

Andrew G. Fellios
Non-Public Arbitrator

Signature Date

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Andrew G. Fellios	-	Non-Public Arbitrator

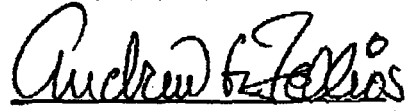
Concurring Arbitrators' Signatures

Muriel Desloovere, Esq.
Public Arbitrator, Presiding Chair

Signature Date

H. Steven Holtzman
Public Arbitrator

Signature Date



Andrew G. Fellios
Non-Public Arbitrator

12 MARCH 2004

Signature Date

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