

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Arya P. Bhattacharjee, Claimant v. Morgan Stanley Dean Witter (n/k/a Morgan Stanley DW Inc.), Respondent

Case Number: 03-00820

Hearing Site: San Francisco, California

Nature of the Dispute: Customer v. Member

REPRESENTATION OF PARTIES

For Claimant:

Jeffrey E. Essner, Esq.
Hopkins & Carley
San Jose, California

For Respondent:

Paul D. Allen, Esq.
Bingham McCutchen LLP
San Francisco, California

CASE INFORMATION

Statement of Claim filed: February 3, 2003

Claimant's Uniform Submission Agreement signed: January 28, 2003

Statement of Answer filed by Respondent: June 10, 2003

Respondent's Uniform Submission Agreement signed: June 10, 2003

CASE SUMMARY

Claimant alleged unauthorized trading, breach of fiduciary duty, failure to supervise, negligence, and misrepresentation. Claimant's allegations primarily involved the use of margin to trade various securities in his Active Assets Account.

Respondent denied the allegations of wrongdoing set forth in Claimant's Statement of Claim.

RELIEF REQUESTED

Claimant requested \$625,150.99 in compensatory damages, rescission, interest and costs, including attorney's fees.

Respondent requested dismissal of the Claimant's Statement of Claim in its entirety and costs.

OTHER ISSUES CONSIDERED AND DECIDED

On March 31, 2004, Claimant and Claimant's 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.

Pursuant to the Code of Arbitration Procedure IM-10100, the waiver of the Claimant shall constitute and operate as a waiver for all member firms and associated persons (including terminated or otherwise inactive member firms or associated persons) against whom the Claim has been filed.

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) Respondent is liable to and shall pay Claimant the sum of \$28,000.00, which includes compensatory damages and interest.
- 2) Respondent is liable to and shall pay Claimant the sum of \$375.00 as reimbursement for the initial claim filing fee.
- 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, 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	= \$ 375.00
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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 Dean Witter (n/k/a Morgan Stanley DW Inc.) is a party and the following fees are assessed:

Member Surcharge	= \$2,250.00
Pre-Hearing Process Fee	= \$ 750.00
<u>Hearing Process Fee</u>	<u>= \$4,000.00</u>
Total Member Fees	= \$7,000.00

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:

(1) Pre-hearing conference session with a single arbitrator @ \$450.00/session	= \$ 450.00
Pre-hearing conference: December 13, 2004 1 session	

(1) Pre-hearing conference session with the Panel @ \$1,200.00/session	= \$ 1,200.00
Pre-hearing conference: July 7, 2004 1 session	

(10) Hearing sessions @ \$1,200.00/session	= \$12,000.00
Hearings:	
March 14, 2005	2 sessions
March 15, 2005	2 sessions
March 16, 2005	2 sessions
March 17, 2005	2 sessions
March 18, 2005	2 sessions

Total Forum Fees	= \$13,650.00
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1. The Panel assessed entire \$13,650.00 in forum fees to Respondent.

Fee Summary

1. Claimant is charged with the following fees and costs:

Initial Filing Fee	= \$ 375.00
<u>Less payments</u>	<u>= \$(1,575.00)</u>
Refund Due	= \$(1,200.00)

2. Respondent is charged with the following fees and costs:

Member Fees	= \$ 7,000.00
<u>Forum Fees</u>	<u>= \$13,650.00</u>
Total Fees	= \$20,650.00
<u>Less payments</u>	<u>= \$(7,000.00)</u>
Balance Due NASD Dispute Resolution	= \$13,650.00

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

Herb Schwartz

Public Arbitrator, Presiding Chair

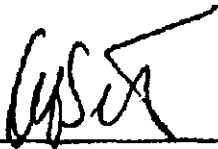
Sterling N. Frost

Public Arbitrator

Richard B. Bullock

Non-Public Arbitrator

Concurring Arbitrators' Signatures



Herb Schwartz
Chair, Public Arbitrator

3/21/05
Signature Date

Sterling N. Frost
Public Arbitrator

Signature Date

Richard B. Bullock
Non-Public Arbitrator

Signature Date

3/21/05
Date of Service

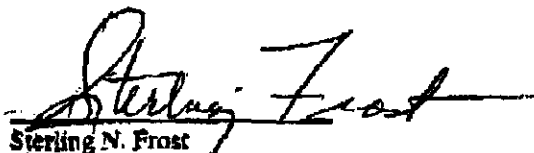
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Herb Schwartz	•	Public Arbitrator, Presiding Chair
Sterling N. Frost	•	Public Arbitrator
Richard B. Bullock	•	Non-Public Arbitrator

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