

Award  
NASD Dispute Resolution

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In the Matter of the Arbitration Between:

Elmer Miller, Claire Miller and The Estate of Helene Morris, Claimants v. Wedbush Morgan Securities Inc., Respondent

Case Number: 03-01719

Hearing Site: Anchorage, Alaska

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Nature of the Dispute: Customers vs. Member

**REPRESENTATION OF PARTIES**

For Claimant:

William F. Brattain  
Baker Brattain LLC  
Anchorage, Alaska

For Respondent:

Judy Louie  
Wedbush Morgan Securities Inc.  
Los Angeles, California

**CASE INFORMATION**

Statement of Claim filed: March 10, 2003

Claimants' Arbitration Brief filed: April 25, 2004

Claimants' Uniform Submission Agreement signed: January 16, 2003

Statement of Answer filed by Respondent Wedbush Morgan Securities Inc. ("WMS"): July 24, 2003

Respondent's Arbitration Brief filed: April 23, 2004

Respondent WMS' Uniform Submission Agreement signed: July 16, 2003

**CASE SUMMARY**

Claimant alleged the following claims with respect to investments in Enron bonds: 1) Fraud; 2) Unsuitable Investments; 3) Unauthorized Trading; and 4) Negligent Supervision.

Respondent denied Claimants' allegations of wrongdoing and denied any liability to Claimants. Respondent also asserted affirmative defenses.

### **RELIEF REQUESTED**

Claimants requested damages of at least \$75,000.00, plus interest, punitive damages, costs of prosecution of the claim, including expert witness compensation, forum fees and attorney fees available under state law.

Respondent requested dismissal of Claimants' claims, costs of suit including legal fees, and for such other and further relief as the Panel may deem just and proper.

### **OTHER ISSUES CONSIDERED AND DECIDED**

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, evidence presented at the hearing and the post-hearing submissions, the Panel decided in full and final resolution of the issues submitted for determination as follows:

- 1) Respondent WMS is liable for and shall pay to Claimant, Claire Miller, individually, the sum of \$32,287.00.
- 2) Respondent WMS is liable for and shall pay to Claimant, The Estate of Helene Morris, individually, the sum of \$16,141.00.
- 3) All claims by Claimant Elmer Miller are denied.
- 4) Claimants' claims for punitive damages are denied.
- 5) Each party shall bear its own costs, including attorney's fees.
- 6) All other relief not expressly granted is denied.

### **FEES**

Pursuant to the Code, the following fees are assessed:

### **Filing Fees**

NASD-DR received or will collect the non-refundable filing fees for each claim as follows:

Initial claim filing fee = \$225.00

### **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, WMS is a party and the following fees are assessed:

Member Surcharge	= \$1,100.00
Pre-Hearing Process Fee	= \$ 750.00
Hearing Process Fee	= \$1,700.00
Total Member Fees	= \$3,550.00

### **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/Panel. The following fees are assessed:

(1) Pre-hearing conference session with the Panel @ \$750.00/session = \$750.00  
Pre-hearing conference: October 28, 2003 1 session

(6) Hearing sessions @ \$750.00/session = \$4,500.00  
Hearing: May 3, 2004 2 sessions  
May 4, 2004 2 sessions  
May 5, 2004 2 sessions

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Total Forum Fees = \$5,250.00

The Panel assessed \$2,625.00 in forum fees jointly and severally to Claimants Elmer Miller, Claire Miller and The Estate of Helene Morris.

The Panel assessed \$2,625.00 in forum fees to Respondent.

### **Fee Summary**

1. Claimants are jointly and severally charged with the following fees and costs:

Initial Filing Fee	= \$ 225.00
Forum Fees	= \$ 2,625.00
Total Fees	= \$ 2,850.00
Less Payments	= \$( 975.00)
Balance Due NASD-DR	= \$ 1,875.00

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

Member Fees	= \$ 3,550.00
Forum Fees	= \$ 2,625.00
Total Fees	= \$ 6,175.00
Less Payments	= \$(3,550.00)
Balance Due NASD-DR	= \$ 2,625.00

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

ARBITRATION PANEL

T. W. Patch, Esq.	-	Public Arbitrator, Presiding Chair
James Rand Carr	-	Public Arbitrator
George E. Casperson	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

  
T. W. Patch, Esq.  
Chair, Public Arbitrator

25 May 2004  
Signature Date

James Rand Carr  
Public Arbitrator

Signature Date

George E. Casperson  
Non-Public Arbitrator

Signature Date

5/25/04  
Date of Service

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

Member Fees	= \$ 3,550.00
Forum Fees	= \$ 2,625.00
Total Fees	= \$ 6,175.00
Less Payments	= \$(3,550.00)
Balance Due NASD-DR	= \$ 2,625.00

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**ARBITRATION PANEL**

T. W. Patch, Esq.  
James Rand Carr  
George E. Casperson

Public Arbitrator, Presiding Chair  
Public Arbitrator  
Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

T. W. Patch, Esq.  
Chair, Public Arbitrator

  
James Rand Carr  
Public Arbitrator

\_\_\_\_\_  
Signature Date

5/20/04  
Signature Date

George E. Casperson  
Non-Public Arbitrator

\_\_\_\_\_  
Signature Date

5/25/04  
Date of Service

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

Member Fees	= \$ 3,550.00
Forum Fees	= \$ 2,625.00
Total Fees	= \$ 6,175.00
Less Payments	= \$(3,550.00)
Balance Due NASD-DR	= \$ 2,625.00

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George E. Casperson	-	Non-Public Arbitrator


**Concurring Arbitrators' Signatures**

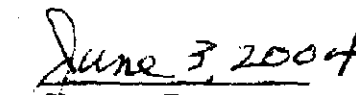
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T. W. Patch, Esq.  
Chair, Public Arbitrator

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James Rand Carr  
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