

NASD DISPUTE RESOLUTION AWARD

NASD DISPUTE RESOLUTION

CASE: 03-02009

Charles B. Eisenson and Deborah B. Levbarg-Eisenson JNT, Claimant v. Morgan Stanley DW, Inc. f/k/a Dean Witter Reynolds, Inc., Alan Greenspan, and John W. Hoekman, Respondents.

ATTORNEYS:

Claimant, Charles B. Eisenson and Deborah B. Levbarg-Eisenson JNT, ("Claimant"), appeared pro se, St. James, NY.

Respondents, Morgan Stanley DW, Inc. f/k/a Dean Witter Reynolds, Inc., Alan Greenspan, and John W. Hoekman, ("Respondents"), appeared through their in-house counsel, Keith Guilfoyle, Esq., New York, NY.

NATURE OF DISPUTE: Customer v. Member and Associated Persons

DATE FILED: March 20, 2003

CASE SUMMARY: Claimant alleged that Respondents executed unauthorized trades in his account. Claimant maintained that due to Respondents' actions, their joint account suffered financial losses.

ARBITRATOR'S REPORT: As a result of the Respondent Morgan Stanley DW, Inc., and more specifically its Telecommunications Director, failing as of May 2004 to provide information as requested in February 2004 by the NASD Dispute Resolution Arbitrator, the Arbitrator made an inference in accordance with the Missing Witness Rule [see Jones on Evidence, 7th edition by Clifford Fishman, Chapter 13, 13:15 et seq.]. Subsequently, the Arbitrator made a finding for the Claimants jointly, based on the inference noted above and all of the written documents submitted to the NASD Dispute Resolution. No finding or liability as to compensatory damages is found against either Mr. Greenspan or Mr. Hoekman because it is not known if either one could have effected the non-action by the Telecommunication Director of Morgan Stanley DW, Inc. that resulted in the inference made under the Missing Witness Rule.

Claim Data

Claim: \$17,550.72
Filing Fees: \$.00
Other: Unspecified

Award Data

Award: \$14,674.00
Filing Fees: \$425.00
Other: \$.00

AWARD: The undersigned arbitrator has decided and determined in full and final resolution of the issues submitted for determination as follows: 1) Respondent Morgan Stanley DW, Inc. f/k/a Dean Witter Reynolds, Inc. is liable and shall pay to the Claimant \$14,674.00. 2) All other requests are denied. 3) NASD Dispute Resolution shall retain the \$425.00 filing fee that the Claimant deposited previously. 4) Respondents Morgan Stanley DW, Inc. f/k/a Dean Witter Reynolds, Inc., Alan Greenspan, and John W. Hoekman are jointly and severally liable and shall pay to the Claimant \$425.00 as reimbursement of the filing fee.

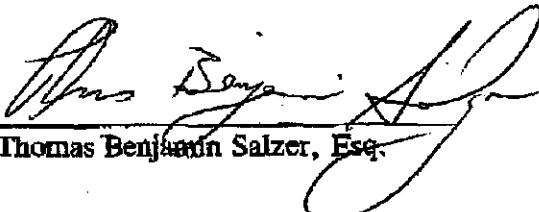
OTHER FEES: Pursuant to Rule 10333 of the Code, Morgan Stanley DW, Inc. f/k/a Dean Witter Reynolds, Inc. has paid to NASD Dispute Resolution the \$425.00 Member Surcharge previously invoiced.

ARBITRATOR

Thomas Benjamin Salzer, Esq. - Sole Public Arbitrator

AFFIRMATION

I, Thomas Benjamin Salzer, Esq., do hereby affirm, upon my oath as arbitrator that I am the individual described herein who executed this instrument, which is my oath and award.


Thomas Benjamin Salzer, Esq.

9 July 2004
Signature Date

July 12, 2004
Date of Service (For NASD-DR office use only)