

AWARD
NASD Dispute Resolution

In the Matter of the Arbitration Between

Name of Claimant

Carol Sitnick Paddor, individually and as Trustee of The Carol L. Sitnick Trust and as beneficiary of the Carol Sitnick IRA Rollover Account

And

03-02405
Chicago, Illinois

Name of Respondents

Morgan Stanley DW Inc. f/k/a Dean Witter Reynolds Inc.
Carolyn Lee Van Helden

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

REPRESENTATION OF PARTIES

Carol Sitnick Paddor, individually and as Trustee of The Carol L. Sitnick Trust and as beneficiary of the Carol Sitnick IRA Rollover Account ("**Claimant**") was represented by Howard B. Prossnite, Esq., Chicago, Illinois.

Morgan Stanley DW Inc. f/k/a Dean Witter Reynolds Inc. ("**Respondent MSDW**") and Carolyn Lee Van Helden ("**Respondent Van Helden**") (collectively as "**Respondents**") were represented by Bruce Lewitas, Esq., Lewitas & Associates, Chicago, Illinois.

CASE INFORMATION

The Statement of Claim was filed on or about April 2, 2003. Submission Agreement of Claimant Carol Sitnick Paddor was signed on March 20, 2003.

Statement of Answer was filed by Respondents Morgan Stanley DW Inc. f/k/a Dean Witter Reynolds Inc. and Carolyn Lee Van Helden on or about June 19, 2003. Submission Agreement of Respondent Morgan Stanley DW Inc. f/k/a Dean Witter Reynolds Inc. was signed on July 14, 2003 by Jeffrey F. Silverman. Submission Agreement of Respondent Carolyn Lee Van Helden was signed on July 14, 2003.

CASE SUMMARY

Claimant asserted the following causes of action: suitability, breach of fiduciary duty and negligent misrepresentation and excessive commissions. Claimants specifically alleged that the asset allocation recommended and implemented by Respondent Van Helden was inappropriate for her in light of her situation. In addition, Claimants alleged that Respondent Van Helden had purchased exclusively "B" shares for the accounts rather than "A" shares, which meant that Claimant spend more on fund administrative charges and sales expenses. It was alleged that Respondent Van Helden failed to recommend or purchase "A" shares at a price equal to net asset value where front end commissions could have been waived and failed to advise that class "A" shares would have been a less expensive investment vehicle.

Respondents denied the allegations set forth in the Statement of Claim. Respondents specifically stated:

The claimant in this matter has filed a suitability claim despite the fact that her accounts were handled in a perfectly benign fashion while at Morgan Stanley. Although Claimant attempts to blame Respondents for the depletion of her accounts, the reality of the situation is that Claimant suffered no losses. Although Claimant correctly notes that her accounts declined from their peaks, such decline was due solely to market forces, a risk she knowingly accepted when she elected to transform her fixed income portfolio to growth. In any event, overall, Claimant's accounts were profitable. In addition, Claimant's allegations to the effect that here purchases of class B mutual fund shares are without merit as the difference between share classes were fully disclosed, and she incorrectly characterizes her ability to purchase class A shares at net asset value.

RELIEF REQUESTED

In her Statement of Claim, Claimant requested an award in the amount of \$500,000.00, including a return of all commissions, damages for the decline in account value, lost opportunity cost damages, punitive damages, plus interest, the costs of the action, filing fees, and for such further and other relief as the arbitrators deem appropriate.

Respondents requested that the claims asserted against them be dismissed in their entirety. Respondent Van Helden further requested that the Arbitration Panel enter an Order directing the expungment of all references to this matter from her Central Registration Depository ("CRD") records.

OTHER ISSUES CONSIDERED & DECIDED

The parties have agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award may be entered. In either case, the parties have agreed to receive conformed copies of the award while the original(s) remain on file with the NASD Dispute Resolution (the "NASD").

AWARD

After considering the pleadings, the testimony, and the evidence presented at the hearing, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. The claims asserted in this matter shall be and hereby are denied in their entirety.
2. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Carolyn Lee Van Helden's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notices to Members 99-09 and 99-54, Respondent Carolyn Lee Van Helden must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.
3. That to the extent not specifically awarded or otherwise provided for above, all other claims and requests for relief by any party hereto are denied with prejudice.
4. Other than the Forum Fees noted below, the parties shall each bear all other costs and expenses incurred by them in connection with this proceeding, including attorneys fees.

FEES

Pursuant to 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

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(s) is Morgan Stanley DW Inc. f/k/a Dean Witter Reynolds Inc.

Member surcharge	\$	1,700.00
Pre-hearing process fee	\$	750.00
Hearing process fee	\$	2,750.00
Total Member Fees	\$	5,200.00

Forum Fees and Assessments

The Arbitration Panel assesses forum fees for each hearing session conducted. A hearing 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:

1	Pre-hearing session(s) with a single arbitrator	x	\$450.00	\$	450.00
	June 4, 2004	1	session		
1	Pre-hearing session(s) with Panel	x	1,125.00	\$	1,125.00
	November 21, 2003	1	session		
4	Hearing sessions	x	1,125.00	\$	4,500.00
	June 9, 2004	2	sessions		
	June 10, 2004	2	sessions		
	Total Forum Fees			\$	6,075.00

The Arbitration Panel has assessed \$3,037.50 of the forum fees to Carol Sitnick Paddor, individually and as Trustee of The Carol L. Sitnick Trust and as beneficiary of Carol Sitnick IRA Rollover Account.

The Arbitration Panel has assessed \$3,037.50 of the forum fees jointly and severally to Morgan Stanley DW Inc. f/k/a Dean Witter Reynolds Inc. and Carolyn Lee Van Helden.

Fee Summary

~~Claimant, Carol Sitnick Paddor, individually and as Trustee of The Carol L. Sitnick Trust and as beneficiary of Carol Sitnick IRA Rollover Account shall be and hereby are jointly and severally liable for:~~

Initial Filing Fee	= \$	300.00
<u>Forum Fees</u>	= \$	3,037.50
Total Fees	= \$	3,337.50
<u>Less payments</u>	= \$	-1,425.00
Balance Due NASD Dispute Resolution	= \$	1,912.50

Respondent, Morgan Stanley DW Inc. f/k/a Dean Witter Reynolds Inc., shall be and hereby is liable for:

Member Fees	= \$	5,200.00
Total Fees	= \$	5,200.00
<u>Less payments</u>	= \$	-6,450.00
Balance applied to fees below	= \$	-1,250.00

Respondents, Morgan Stanley DW Inc. f/k/a Dean Witter Reynolds Inc. and Carolyn Lee Van Helden, shall be and hereby are jointly and severally liable for:

<u>Forum Fees</u>	= \$	3,037.50
Total Fees	= \$	3,037.50
<u>Less payments</u>	= \$	-1,250.00
Balance Due NASD Dispute Resolution	= \$	1,787.50

All balances are due to NASD Dispute Resolution

ARBITRATION PANEL

Elizabeth C. Simon - Public Arbitrator, Presiding Chair
James M. Casey - Public Arbitrator
Frank E. Jacober, Jr. - Non-Public Arbitrator

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Concurring Arbitrators:

/s/ Elizabeth C. Simon
Elizabeth C. Simon
Public Arbitrator, Presiding Chair

June 10, 2004
Signature Date

/s/ James M. Casey
James M. Casey
Public Arbitrator

June 10, 2004
Signature Date

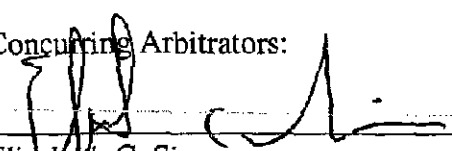
/s/ Frank E. Jacober, Jr.
Frank E. Jacober, Jr.
Non-Public Arbitrator

June 10, 2004
Signature Date

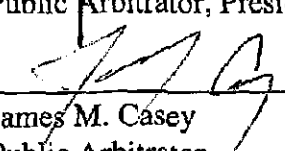
Date of Service: _____

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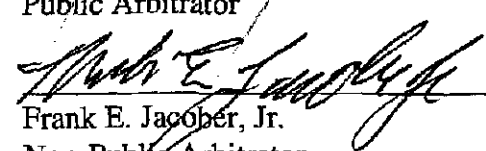
Concurring Arbitrators:


Elizabeth C. Simon
Public Arbitrator, Presiding Chair

6/10/04
Signature Date


James M. Casey
Public Arbitrator

6/10/04
Signature Date


Frank E. Jacober, Jr.
Non-Public Arbitrator

6/12/04
Signature Date