

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Reginald Wayne Clark and Beverly Jean Clark Family Trust, Claimant v. Morgan Wilshire Securities, Inc. and Dmitry Alex Metelkin, Respondents

Case Number: 03-04010

Hearing Site: San Diego, California

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

REPRESENTATION OF PARTIES

For Claimant:

Reginald Wayne Clark
In Pro Per
San Diego, California

For Respondent Morgan Wilshire Securities, Inc.:

Charles Carrillo, CCO
Morgan Wilshire Securities, Inc.
Westbury, New York

For Respondent Dmitry Alex Metelkin:

Dmitry Alex Metelkin
In Pro Per
Staten Island, New York

CASE INFORMATION

Statement of Claim filed: May 27, 2003

Claimant's Uniform Submission Agreement signed: May 21, 2003

Statement of Answer filed by Respondent Morgan Wilshire Securities, Inc.: August 11, 2003

Respondent Morgan Wilshire Securities, Inc.'s Uniform Submission Agreement signed:
August 11, 2003

Statement of Answer filed by Respondent Dmitry Alex Metelkin: October 6, 2003

CASE SUMMARY

Claimant alleged breach of fiduciary duty, unauthorized trading, misrepresentation, churning, lack of fair dealing, and failure to supervise. The dispute involved the purchase and/or sale of NASDAQ 100 shares, Amazon.com, Boeing Co. stock, Invision Technologies, and Harrah's Entertainment, Inc. securities.

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

RELIEF REQUESTED

Claimant requested losses for unauthorized trades in the amount of \$11,838.50, losses due to failure to institute stop loss on Harrah's Entertainment, Inc. in the amount of \$6,690.74, reimbursement for the excess commissions from churning in the amount of \$10,809.00, interest, attorney's fees, and arbitration costs.

Respondent Morgan Wilshire Securities, Inc. requested dismissal of the Claimant's Statement of Claim in its entirety.

OTHER ISSUES CONSIDERED AND DECIDED

On July 5, 2003, 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.

Upon review of the file and the representations made by the Claimant, the undersigned Arbitrator determined that Respondent Dmitry Alex Metelkin was properly served with the Statement of Claim and received due notice of the hearing, and that arbitration of the matter would proceed without said Respondent present, in accordance with the NASD Code of Arbitration Procedure (the "Code").

Respondent Dmitry Alex Metelkin did not file with NASD Dispute Resolution a properly executed submission agreement but is required to submit to arbitration pursuant to the Code and having answered the claim, is bound by the determination of the Arbitrator on all issues submitted.

On April 2, 2004, NASD Dispute Resolution received notice that Claimant dismissed Respondent Morgan Wilshire Securities, Inc. without prejudice.

On April 8, 2004, NASD Dispute Resolution received notice from Respondent Morgan Wilshire Securities, Inc. that they had reached a settlement with Claimant.

The parties agreed that a handwritten, signed Award may be entered.

AWARD

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

- 1) Respondent Dimitry Alex Metelkin is liable to and shall pay Claimant Reginald Wayne Clark and Beverly Jean Clark Family Trust \$29,338.24 in compensatory damages.
- 2) The parties shall bear their respective costs, including attorney's fees.
- 3) 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	= \$ 150.00
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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 Wilshire Securities, Inc. is a party and the following fees are assessed:

Member Surcharge	= \$ 600.00
Pre-Hearing Process Fee	= \$ 750.00
Hearing Process Fee	= \$1,000.00
Total Member Fees	= \$2,350.00

Forum Fees and Assessments

The Arbitrator 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. The following fees are assessed:

One (1) Pre-hearing conference session with the Chair @ \$450.00/session = \$ 450.00
Pre-hearing conference: October 29, 2003 1 session

One (1) Hearing session @ \$450.00/session = \$ 450.00
Hearing: April 20, 2004 1 session

Total Forum Fees = \$ 900.00

1. The Arbitrator assessed \$450.00 of the forum fees to Claimant Reginald Wayne Clark and Beverly Jean Clark Family Trust.
2. The Arbitrator assessed \$450.00 of the forum fees to Respondent Dmitry Alex Metelkin.

Fee Summary

1. Claimant Reginald Wayne Clark and Beverly Jean Clark Family Trust is charged with the following fees and costs:

Initial Filing Fee	= \$ 150.00
Forum Fees	= \$ 450.00
Total Fees	= \$ 600.00
Less payments	= \$(600.00)
Balance Due NASD Dispute Resolution	= \$ 0.00

2. Respondent Morgan Wilshire Securities, Inc. is charged with the following fees and costs:

Member Fees	= \$ 2,350.00
Less payments	= \$(1,187.50)
Balance Due NASD Dispute Resolution	= \$1,162.50

3. Respondent Dmitry Alex Metelkin is charged with the following fees and costs:

Forum Fees	= \$ 450.00
Balance Due NASD Dispute Resolution	= \$ 450.00

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.

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ARBITRATOR

Ronald O. Bub

Public Arbitrator, Presiding Chair

Arbitrator's Signature

Ronald O. Bub
Ronald O. Bub
Chair, Public Arbitrator

10 May 2004
Signature/Date

May 11, 2004
Date of Service