
Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Names of the Claimants

Harvey Titen and Gloria Titen,
individually, jointly, and on behalf
of any retirement or trust accounts

Case Number: 03-05322

Name of the Respondent

Morgan Stanley (Dean Witter), Inc.

Hearing Site: Orlando, Florida

Nature of the Dispute: Customer vs. Member.

REPRESENTATION OF PARTIES

For Harvey Titen and Gloria Titen, individually, jointly, and on behalf of any retirement or trust accounts, hereinafter collectively referred to as "Claimants": Neal J. Blaher, Esq., Law Offices of Neal J. Blaher, Orlando, Florida.

For Morgan Stanley (Dean Witter), Inc. ("MSDW"), hereinafter referred to as "Respondent": Tucker R. Byrd, Esq., Greenberg Traurig, P.A., Orlando, Florida.

CASE INFORMATION

Statement of Claim filed on or about: July 15, 2003.

Claimants signed, but did not date, the Uniform Submission Agreements.

Statement of Answer filed by Respondent on or about: September 17, 2003.

Respondent signed the Uniform Submission Agreement: September 17, 2003.

CASE SUMMARY

Claimants asserted the following causes of action: common law breach of fiduciary duty; negligence; and breach of contract. The causes of action relate to the purchase in Claimants' accounts of MSDW mutual funds and unspecified technology stocks.

Unless specifically admitted in its Answer, Respondent denied the allegations made in the Statement of Claim and asserted various defenses.

RELIEF REQUESTED

Claimants requested the following relief:

1. compensatory damages of not less than \$275,000.00;

2. disgorgement of all commissions, mark-ups/mark-downs, payment for order flow and any other forms of compensation received by Respondent, or charged to Claimants, from the transactions at issue;
3. selective rescission;
4. pre-judgment interest;
5. costs and fees of this action, including expert witness fees;
6. punitive damages in the sound discretion of the Panel; and
7. such other relief as the Panel deemed appropriate.

Respondent requested that the Statement of Claim be dismissed in its entirety, that all references to this dispute be expunged from Respondent's Central Registration Depository ("CRD") records, and that the Panel award judgment in favor of Respondent.

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

All claims of Claimants are denied in their entirety.

The Panel recommends that all references to the above-captioned arbitration be expunged from Respondent'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 must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

Any and all claims for relief not specifically addressed herein, including Claimants' request for punitive damages, are denied.

FEES

Pursuant to the NASD Code of Arbitration Procedure (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
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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. Accordingly, Respondent is a member firm and a party.

Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$2,750.00
Total Member Fees	= \$3,500.00

Adjournment Fees

No adjournments were requested in this matter.

Three-Day Cancellation Fees

Fees apply when a hearing on the merits is postponed or settled within three business days before the start of a scheduled hearing session.

No three-day cancellation fees were assessed in this matter.

Injunctive Relief Fees

Injunctive relief fees are assessed to each member or associated person who files for a temporary injunction in court. Parties in these cases are also assessed arbitrator travel expenses and costs when an arbitrator is required to travel outside his or her hearing location and additional arbitrator honoraria for the hearing for permanent injunction. These fees, except the injunctive relief surcharge, are assessed equally against each party unless otherwise directed by the Panel.

Injunctive relief fees were not assessed in this matter.

Forum Fees and Assessments

The Panel has assessed forum fees for each session conducted. A 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:

One (1) Pre-hearing session with the Panel @ \$1,125.00/session	= \$ 1,125.00
Pre-hearing conference: February 17, 2004 1 session	
One (1) Pre-hearing session with a single arbitrator @ \$450.00/session	= \$ 450.00
Pre-hearing conference: May 28, 2004 1 session	
Four (4) Hearing sessions @ \$1,125.00/session	= \$ 4,500.00
Hearing Dates: August 24, 2004 2 sessions	
August 25, 2004 2 sessions	
Total Forum Fees	= \$ 6,075.00

The Panel has assessed the total forum fees of \$6,075.00 to Claimants, jointly and severally.

Administrative Costs

Administrative costs are expenses incurred due to a request by a party for special services beyond the normal administrative services. These include, but are not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

There were no administrative costs incurred in this matter.

Fee Summary

Claimants are jointly and severally liable for:

Initial Filing Fee	= \$ 300.00
<u>Forum Fees</u>	<u>= \$6,075.00</u>
Total Fees	= \$6,375.00
<u>Less Payments</u>	<u>= \$1,425.00</u>
Balance Due NASD Dispute Resolution	= \$4,950.00

Respondent is solely liable for:

Member Fees	= \$3,500.00
Total Fees	= \$3,500.00
<u>Less Payments</u>	<u>= \$3,500.00</u>
Balance Due NASD Dispute Resolution	= \$ 0.00

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

ARBITRATION PANEL

Maurice M. Feller, Esq.	-	Public Arbitrator, Presiding Chairperson
Robert Finder	-	Public Arbitrator
Archibald L. Watkins	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

_____/s/
Maurice M. Feller, Esq.
Public Arbitrator, Presiding Chairperson

August 30, 2004
Signature Date

_____/s/
Robert Finder
Public Arbitrator

August 30, 2004
Signature Date

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/s/

Archibald L. Watkins

Non-Public Arbitrator

August 30, 2004

Signature Date

August 31, 2004

Date of Service (For NASD Dispute Resolution office use only)

AUG. 27. 2004 4:31PM NASD

No. 7090 P. 5

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Maurice M. Feller, Esq.
Robert Finder
Archibald L. Watkins

Public Arbitrator, Presiding Chairperson
Public Arbitrator
Non-Public Arbitrator

Concurring Arbitrators' Signatures


Maurice M. Feller, Esq.
Public Arbitrator, Presiding Chairperson

8-30-04
Signature Date

Robert Finder
Public Arbitrator

Signature Date

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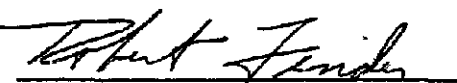
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Maurice M. Feller, Esq.	-	Public Arbitrator, Presiding Chairperson
Robert Finder	-	Public Arbitrator
Archibald L. Watkins	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

Maurice M. Feller, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date



Robert Finder
Public Arbitrator

8.30.04

Signature Date

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Archibald L. Watkins
Non-Public Arbitrator

8/30/2004
Signature Date

Date of Service (For NASD Dispute Resolution office use only)