

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimants
Lynn and Lenore Marzulli

Case Number: 03-05963

Name of the Respondent
Morgan Stanley DW, Inc.
f/k/a Dean Witter Reynolds, Inc.

Hearing Site: Philadelphia, PA

Nature of the Dispute: Customers vs. Member.

REPRESENTATION OF PARTIES

Claimants, Lynn and Lenore Marzulli, hereinafter collectively referred to as "Claimants", represented themselves at the hearing.

Respondent, Morgan Stanley DW, Inc., f/k/a Dean Witter Reynolds, Inc. ("Morgan Stanley"), hereinafter referred to as "Respondent", was represented by Richard Smith, Esq., Morgan Stanley DW, Inc., New York, New York.

CASE INFORMATION

Statement of Claim filed on August 14, 2003.

Claimants signed the Uniform Submission Agreement on September 23, 2003.

Statement of Answer filed by Respondent on October 30, 2003.

Respondent did not submit an executed Uniform Submission Agreement.

CASE SUMMARY

Claimants asserted the following causes of action, among others: negligence and misrepresentation. The causes of action relate to the purchase of a Kemper Lumbermens Mutual Note.

Unless specifically admitted in its Answer, Respondent denied the allegations made in the Statement of Claim and asserted the following defenses: failure to state a claim upon which relief may be granted; there was no misrepresentation; Claimants' actions or inactions caused any losses; there were no misrepresentations; failure to mitigate damages; ratification; waiver; estoppel; all duties owed to Claimants were faithfully performed; and, Claimants' losses are barred by or should be reduced by Claimants' comparative and/or contributory negligence.

RELIEF REQUESTED

Claimants in their Statement of Claim requested compensatory damages in the amount of eighteen thousand seven hundred and two dollars and thirty-five cents (\$ 18,702.35).

Respondent in its Statement of Answer requested that the Statement of Claim be dismissed in its entirety, that Respondent be awarded the costs and expenses incurred in this arbitration, and that Respondent be awarded any such other and further relief as is just and proper.

OTHER ISSUES CONSIDERED AND DECIDED

Respondent did not file with NASD Dispute Resolution, a properly executed submission to arbitration 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.

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

AWARD

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

1. Respondent shall pay to Claimants compensatory damages in the amount of seventeen-thousand five-hundred dollars (\$ 17,500.00);
2. The parties shall bear their respective costs, including attorneys' fees, except as Fees are specifically addressed below; and,
3. Any and all relief not specifically addressed herein is denied in its entirety.

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 = \$ 125.00

Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firms that employed the associated person(s) at the time of the events giving rise to the dispute. Accordingly, Respondent Morgan Stanley is a party.

Member surcharge	= \$ 425.00
Total Member Fees	= \$ 425.00

Forum Fees and Assessments

The Arbitrator 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 single Arbitrator @ \$ 450	= \$ 450.00
Pre-hearing conference: January 13, 2004 1 session	

One (1) Hearing session @ \$ 450	= \$ 450.00
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Hearing Date: May 19, 2004 1 session	
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Total Forum Fees	= \$ 900.00
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1. The Arbitrator has assessed \$ 450.00 of the forum fees to Claimants.
2. The Arbitrator has assessed \$ 450.00 of the forum fees to Respondent.

FEES SUMMARY

1. Claimants are assessed and shall pay the following fees:

Initial Filing Fee	= \$ 125.00
Forum Fees	= \$ 450.00
Total Fees	= \$ 575.00
Less payments	= \$ 575.00
Balance Due NASD Dispute Resolution	= \$ 00.00

2. Respondent, Morgan Stanley, is assessed and shall pay the following fees:

Member Fees	= \$ 425.00
Forum Fees	= \$ 450.00
Total Fees	= \$ 875.00
Less payments	= \$ 425.00
Balance Due NASD Dispute Resolution	= \$ 450.00

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

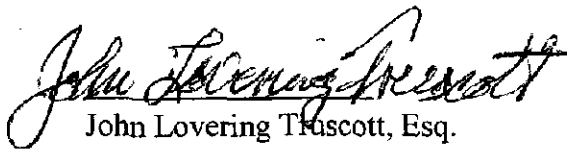
SOLE ARBITRATOR

John Lovering Truscott, Esq.

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Public Arbitrator, Sole Arbitrator

Sole Arbitrator's Signature



John Lovering Thuscott, Esq.
Public Arbitrator, Sole Arbitrator

5/25/04
Signature Date

May 27, 2004
Date of Service (For NASD Dispute Resolution office use only)