

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Brigitte Zirrig-Rank, Claimant v. Morgan Stanley Dean Witter & Co. aka Morgan Stanley DW Inc. and Rommy M. Maytal, Respondents

Case Number: 04-00394

Hearing Site: Los Angeles, California

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

REPRESENTATION OF PARTIES

For Claimant:

Frank E. Marchetti, Esq.
Kabateck Brown Kellner LLP
Los Angeles, California

For Respondents:

Jane J. Park, Esq.
Kirkland & Ellis LLP
Los Angeles, California

CASE INFORMATION

Statement of Claim filed: January 16, 2004

Claimant's Uniform Submission Agreement filed: undated

Statement of Answer filed by Respondents: May 26, 2004

Respondent Morgan Stanley Dean Witter & Co. aka Morgan Stanley DW Inc.'s Uniform Submission Agreement signed: May 20, 2004

Respondent Rommy M. Maytal's Uniform Submission Agreement signed: May 24, 2004

CASE SUMMARY

Claimant alleged breach of fiduciary duty, negligence, breach of contract, and fraudulent misrepresentations, involving unspecified securities.

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

RELIEF REQUESTED

Claimant requested \$400,000.00 in compensatory damages, \$500,000.00 in punitive damages, and unspecified costs.

Respondents requested dismissal of the Claimant's Statement of Claim in its entirety and costs.

OTHER ISSUES CONSIDERED AND DECIDED

On August 2, 2004, 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.

On May 20, 2004, Respondent Morgan Stanley Dean Witter & Co. aka Morgan Stanley DW Inc.'s counsel signed a Waiver Agreement on its behalf expressly waiving any and all rights and benefits under California Civil Code Section 1542 and the California Ethical Standards for Neutral Arbitrators.

On May 24, 2004, Respondent Rommy M. Maytal 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.

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

- 1) Respondents are jointly and severally liable to and shall pay Claimant the sum of \$275,621.00 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 = \$ 375.00

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 Stanley Dean Witter & Co. aka Morgan Stanley DW Inc. is a party and the following fees are assessed:

Member Surcharge	= \$ 2,250.00
Pre-Hearing Process Fee	= \$ 750.00
<u>Hearing Process Fee</u>	<u>= \$ 4,000.00</u>
Total Member Fees	= \$ 7,000.00

Adjournment Fees

The following adjournment fees are assessed:

April 20-22, 2005 stipulated hearing adjournment request = \$ 1,200.00

The parties stipulated that \$1,200.00 of the adjournment fees are assessed to Claimant.

Forum Fees and Assessments

The Panel 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/Panel. The following fees are assessed:

1 Pre-hearing conference session with a single arbitrator @ \$450.00/session	= \$	450.00
Pre-hearing conference: May 25, 2005 1 session		
2 Pre-hearing conference sessions with the Panel @ \$1,200.00/session	= \$	2,400.00
Pre-hearing conferences: October 18, 2004 1 session		
April 14, 2005 1 session		
10 Hearing sessions @ \$1,200.00/session	= \$	12,000.00
Hearings: July 18, 2005 2 sessions		
July 19, 2005 2 sessions		
July 20, 2005 2 sessions		
August 1, 2005 3 sessions		
August 5, 2005 1 session		
Total Forum Fees	= \$	14,850.00

1. The Panel assessed \$7,425.00 of the forum fees to Claimant.
2. The Panel assessed \$7,425.00 of the forum fees jointly and severally to Respondents.

Administrative Costs

Administrative costs are expenses incurred because a party requested additional services beyond the normal administrative services. These additional services include, but are not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, security, and sundry other requests.

Claimant requested 10 copies of audio transcripts @ \$15.00 each:	= \$	150.00
Respondents requested 14 copies of audio transcripts @ \$15.00 each:	= \$	210.00
Respondents requested 21 photocopies @ \$0.50 each:	= \$	10.50

Fee Summary

1. Claimant is charged with the following fees and costs:

Initial Filing Fee	= \$ 375.00
Adjournment Fee	= \$ 1,200.00
Forum Fees	= \$ 7,425.00
<u>Administrative Costs</u>	<u>= \$ 150.00</u>
Total Fees	= \$ 9,150.00
<u>Less payments</u>	<u>= \$(2,925.00)</u>
Balance Due NASD Dispute Resolution	= \$ 6,225.00

2. Respondent Morgan Stanley Dean Witter & Co. aka Morgan Stanley DW Inc. is charged with the following fees and costs:

Member Fees	= \$ 7,000.00
<u>Less payments</u>	<u>= \$(7,000.00)</u>
Balance Due NASD Dispute Resolution	= \$ 0.00

3. Respondents are charged jointly and severally with the following fees and costs:

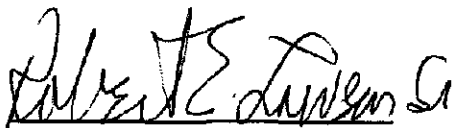
Forum Fees	= \$ 7,425.00
<u>Administrative Costs</u>	<u>= \$ 220.50</u>
Total Fees	= \$ 7,645.50
Less payments made by Respondent Morgan Stanley Dean Witter & Co. aka Morgan Stanley DW Inc.	= \$(210.00)
Balance Due NASD Dispute Resolution	= \$ 7,435.50

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.


ARBITRATION PANEL

Robert E. Lawson, Sr.	-	Public Arbitrator, Presiding Chair
Harry Miller	-	Public Arbitrator
Michael G. Clark	-	Non-Public Arbitrator


Concurring Arbitrators' Signatures


Robert E. Lawson, Sr.
Chair, Public Arbitrator

8/5/05
Signature Date


Harry Miller
Public Arbitrator

8/5/05
Signature Date


Michael G. Clark
Non-Public Arbitrator

8/5/05
Signature Date

8/5/05
Date of Service