

**Award**  
**NASD Dispute Resolution**

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In the Matter of the Arbitration Between:

Maria Belknap, Claimant v. Morgan Stanley DW Inc. a/k/a Morgan Stanley Dean Witter, Eloise J. Rich, Susan Lee Dehen, and Lisa Ann Detanna, Respondents

Case Number: 04-02724

Hearing Site: Los Angeles, California

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

**REPRESENTATION OF PARTIES**

For Claimant:

William W. Bloch, Esq.  
Excelus Law Group, Inc.  
Beverly Hills, California

For Respondents Morgan Stanley DW Inc.  
a/k/a Morgan Stanley Dean Witter, Eloise J. Rich,  
Susan Lee Dehen, and Lisa Ann Detanna:

Todd E. Gordinier, Esq.  
Edward S. Kim, Esq.  
Stradling Yocca Carlson & Rauth  
Newport Beach, California

For Respondents Susan Lee Dehen and  
Lisa Ann Detanna:

Scott E. Rahn, Esq.  
Keesal, Young & Logan  
Long Beach, California

**CASE INFORMATION**

Statement of Claim filed: April 12, 2004

Claimant's Uniform Submission Agreement signed: March 3, 2004

Joint Statement of Answer filed by Respondents: July 7, 2004

Respondent Morgan Stanley DW Inc. a/k/a Morgan Stanley Dean Witter's Uniform Submission Agreement signed: May 4, 2004

Respondent Eloise J. Rich's Uniform Submission Agreement signed: July 8, 2004

Respondent Susan Lee Dehen's Uniform Submission Agreement signed: July 6, 2004

Respondent Lisa Ann Detanna's Uniform Submission Agreement signed: July 6, 2004

### **CASE SUMMARY**

Claimant alleged fraud, negligence, negligent misrepresentation, breach of fiduciary duty, breach of contract, unsuitability, and failure to supervise, involving unspecified securities.

Respondents denied the allegations of wrongdoing set forth in the Claimant's Statement of Claim and asserted various affirmative defenses.

### **RELIEF REQUESTED**

Claimant requested \$200,000.00 in compensatory damages, including lost interest and opportunity costs. Claimant also requested \$249,000.00 in punitive damages, plus costs and attorney's fees.

Respondents requested dismissal of the Claimant's Statement of Claim in its entirety, costs, hearing fees, and expungement of this claim from the CRD records of the individually named Respondents.

### **OTHER ISSUES CONSIDERED AND DECIDED**

On May 5, 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 July 6, 2004, Respondents' counsel signed a Waiver Agreement on their behalf 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) Respondent Morgan Stanley DW Inc. a/k/a Morgan Stanley Dean Witter is liable to and shall pay Claimant the sum of \$39,000.00 in compensatory damages.
- 2) Respondent Morgan Stanley DW Inc. a/k/a Morgan Stanley Dean Witter is liable to and shall pay Claimant interest on \$39,000.00 at the rate of 10% per annum from April 12, 2004 to October 11, 2005.
- 3) Respondents Eloise J. Rich, Susan Lee Dehen, and Lisa Ann Detanna are dismissed with prejudice.
- 4)
  - a. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Eloise J. Rich's registration records maintained by the Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notices to Members 04-16, Respondent Eloise J. Rich must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.
  - b. Unless specifically waived in writing by the NASD, parties seeking judicial confirmation of an arbitration award containing expungement relief must name NASD as an additional party and serve NASD with all appropriate documents.
  - c. Pursuant to Rule 2130, the arbitration panel has made the following affirmative findings of fact: The registered person was not involved in the alleged investment-related sales practice violation, forgery, theft, misappropriation, or conversion of funds.
- 5)
  - a. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Susan Lee Dehen's registration records maintained by the CRD, with the understanding that pursuant to NASD Notices to Members 04-16, Respondent Susan Lee Dehen must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.
  - b. Unless specifically waived in writing by the NASD, parties seeking judicial confirmation of an arbitration award containing expungement relief must name NASD as an additional party and serve NASD with all appropriate documents.
  - c. Pursuant to Rule 2130, the arbitration panel has made the following affirmative findings of fact: The claim, allegation, or information is false.

- 6) Respondent Lisa Ann Detanna's request for expungement is denied.
- 7) The parties shall bear their respective costs, including attorney's fees.
- 8) 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 | = \$ 300.00 |
|--------------------------|-------------|

#### **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 DW Inc. a/k/a Morgan Stanley Dean Witter is a party and the following fees are assessed:

|                            |                      |
|----------------------------|----------------------|
| Member Surcharge           | = \$ 1,700.00        |
| Pre-Hearing Process Fee    | = \$ 750.00          |
| <u>Hearing Process Fee</u> | <u>= \$ 2,750.00</u> |
| <b>Total Member Fees</b>   | <b>= \$ 5,200.00</b> |

#### **Adjournment Fees**

The following adjournment fees are assessed:

|   |               |
|---|---------------|
| May 31-June 3, 2005 hearing adjournment requested by Claimant | = \$ 1,125.00 |
| July 25-28, 2005 hearing adjournment requested by Respondents | = \$ 1,125.00 |

1. The Panel assessed \$1,125.00 of the adjournment fees to Claimant.
2. The Panel assessed \$1,125.00 of the adjournment fees jointly and severally to Respondents.

**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 Panel. The following fees are assessed:

3 Pre-hearing conference sessions with the Panel @ \$1,125.00/session = \$ 3,375.00

|                          |                    |           |
|--------------------------|--------------------|-----------|
| Pre-hearing conferences: | September 21, 2004 | 1 session |
|                          | April 19, 2005     | 1 session |
|                          | June 21, 2005      | 1 session |

10 Hearing sessions @ \$1,125.00/session = \$ 11,250.00

|           |                    |            |
|-----------|--------------------|------------|
| Hearings: | September 12, 2005 | 2 sessions |
|           | September 13, 2005 | 2 sessions |
|           | September 14, 2005 | 3 sessions |
|           | October 10, 2005   | 2 sessions |
|           | October 11, 2005   | 1 session  |

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**Total Forum Fees** = \$ 14,625.00

1. The Panel assessed \$3,656.25 of the forum fees to Claimant.
2. The Panel assessed \$10,968.75 of the forum fees to Respondent Morgan Stanley DW Inc. a/k/a Morgan Stanley Dean Witter.

**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.

Respondents requested 11 copies of audio transcripts @ \$15.00 each: = \$ 165.00

**Fee Summary**

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

|  |                      |
|--|----------------------|
| Initial Filing Fee                         | = \$ 300.00          |
| Adjournment Fee                            | = \$ 1,125.00        |
| <u>Forum Fees</u>                          | = \$ 3,656.25        |
| Total Fees                                 | = \$ 5,081.25        |
| <u>Less payments</u>                       | = \$(1,450.00)       |
| <b>Balance Due NASD Dispute Resolution</b> | <b>= \$ 3,631.25</b> |

2. Respondent Morgan Stanley DW Inc. a/k/a Morgan Stanley Dean Witter is charged with the following fees and costs:

|  |                      |
|--|----------------------|
| Member Fees                                | = \$ 5,200.00        |
| <u>Forum Fees</u>                          | = \$10,968.75        |
| Total Fees                                 | = \$16,168.75        |
| <u>Less payments</u>                       | = \$( 5,200.00)      |
| <b>Balance Due NASD Dispute Resolution</b> | <b>= \$10,968.75</b> |

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

|  |                   |
|--|-------------------|
| Adjournment Fee                            | = \$ 1,125.00     |
| <u>Administrative Costs</u>                | = \$ 165.00       |
| Total Fees                                 | = \$ 1,290.00     |
| <u>Less payments</u>                       | = \$(1,280.00)    |
| <b>Balance Due NASD Dispute Resolution</b> | <b>= \$ 10.00</b> |

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

Susan B. Gans-Smith  
Morton R. Field  
Michael W. Burnett

Public Arbitrator, Presiding Chair  
Public Arbitrator  
Non-Public Arbitrator


Concurring Arbitrators' Signatures

  
Susan B. Gans-Smith  
Chair, Public Arbitrator

10-11-05  
Signature Date

  
Morton R. Field  
Public Arbitrator

10/11/05  
Signature Date

  
Michael W. Burnett  
Non-Public Arbitrator

10/11/2005  
Signature Date

10/11/05  
Date of Service