

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

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In the Matter of the Arbitration Between:

Elizabeth Huntley Horowitz (Claimant) v. Morgan Stanley DW, Inc. f/k/a Dean Witter Reynolds, Inc. and Sun Consolidated Securities (Respondents)

Case Number: 99-02297

Hearing Site: New York, New York

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Nature of the Dispute: Customer v. Members.

**REPRESENTATION OF PARTIES**

Claimant Elizabeth Huntley Horowitz ("Horowitz") hereinafter referred to as "Claimant" appeared *pro se*.

Respondent Morgan Stanley DW, Inc. f/k/a Dean Witter Reynolds, Inc. ("MSDW"): Anne Tennant Cooney, Esq., previously Curt Mueller, Esq., Dean Witter Reynolds, Inc., San Francisco, CA.

Respondent Sun Consolidated Securities ("Sun") did not enter an appearance in this matter.

**CASE INFORMATION**

Statement of Claim filed on or about: May 12, 1999.

Claimant signed the Uniform Submission Agreement: May 12, 1999.

Statement of Answer filed by Respondent MSDW on or about: August 12, 1999.

Respondent MSDW signed the Uniform Submission Agreement: August 12, 1999.

Respondent Sun did not file a Statement of Answer or sign the Uniform Submission Agreement.

**CASE SUMMARY**

Claimant asserted the following causes of action: failure to execute; unauthorized trading; and failure to follow instructions. Claimant's claim involved shares of AMQUEST and Worldcom.

Unless specifically admitted in its Answer, Respondent MSDW denied the allegations made in the Statement of Claim.

**RELIEF REQUESTED**

Claimant requested compensatory damages in the amount of \$138,900.00.

Respondent MSDW requested that the claim be dismissed in its entirety.

**OTHER ISSUES CONSIDERED AND DECIDED**

Upon review of the file and the representations made by the Claimant, the undersigned arbitrators (the "Panel") determined that Respondent Sun has been properly served with the Statement of Claim and received due notice of the initial pre-hearing conference and that arbitration of the matter would proceed without said Respondent present, in accordance with the NASD Code of Arbitration Procedure (the "Code").

Respondent Sun did not file with NASD Dispute Resolution ("NASD DR") a properly executed Uniform Submission Agreement but is required to submit to arbitration pursuant to the Code and is bound by the determination of the Panel on all issues submitted.

On or about March 27, 2000 and October 3, 2000 NASD DR was notified that Claimant settled her claims with Respondent MSDW.

NASD DR has been unable to reschedule this matter since the cancellation of the initial pre-hearing conference scheduled for February 24, 2000. NASD DR sent letters to Claimant on July 11, 2002, August 14, 2002 and November 24, 2003 asking her to advise NASD DR as to the status of this matter. To date, NASD DR has not received a response and the Panel has determined to dismiss this matter without prejudice for failure to prosecute.

**AWARD**

After considering the pleadings and Claimant's lack of prosecution, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Claimant's claims are dismissed without prejudice.
2. Any and all relief not specifically addressed herein is denied.

**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 = \$300.00

**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 persons at the time of the events giving rise to the dispute. Accordingly, Morgan Stanley DW, Inc. is a party

Member surcharge = \$1,500.00

Pre-hearing process fee = \$ 600.00

**Fee Summary**

1. Claimant is solely liable for:

Initial Filing Fee = \$ 300.00

Total Fees = \$ 300.00

Less payments = \$1,425.00

Refund Due Claimant = \$1,125.00

2. Respondent MSDW is solely liable for:

Member Fees = \$2,100.00

Total Fees = \$2,100.00

Less payments = \$2,100.00


Balance Due NASD Dispute Resolution = \$ 0.00

**ARBITRATION PANEL**

Edwin S. Mruk	-	Public Arbitrator, Presiding Chairperson
Raymond S. Fleishman	-	Public Arbitrator
Lisa Catalano, Esq.	-	Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

I, the undersigned arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument in which is my award.

  
\_\_\_\_\_  
Edwin S. Mruk  
Public Arbitrator, Presiding Chairperson

6/15/04  
\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Raymond S. Fleishman  
Public Arbitrator

\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Lisa Catalano, Esq.  
Non-Public Arbitrator

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Signature Date

\_\_\_\_\_  
June 24, 2004

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Date of Service (For NASD Dispute Resolution use only)

**ARBITRATION PANEL**

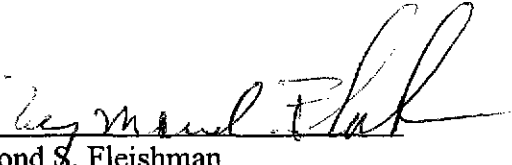
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