
Award
NASD Dispute Resolution, Inc.

In the Matter of the Arbitration Between:

F. Ronald Callaway and Patsy Callaway
Claimants,

Vs.

Morgan Stanley Dean Witter Inc., f/k/a Dean Witter Reynolds Inc.
Respondent.

Case Number: 99-02669

Hearing Site: Dallas, Texas.

REPRESENTATION OF PARTIES

Claimants, F. Ronald Callaway and Patsy Callaway ("Ron and Patsy Callaway"): Samuel L. Boyd, Esq. of the firm Boyd & Associates, Dallas, Texas.

Respondent, Morgan Stanley Dean Witter Inc., ("Dean Witter"): Rodney Acker, Esq. and Ellen Sessions, Esq. of the firm Jenkins & Gilchrist, Dallas, Texas.

CASE INFORMATION

Statement of Claim filed on or about: June 10, 1999.

Claimants Ron and Patsy Callaway signed the Uniform Submission Agreement on June 29, 1999.

Respondent, Dean Witter filed a Statement of Answer on or about October 13, 1999.
A corporate representative, on behalf of Respondent, Dean Witter, signed the Uniform Submission Agreement on February 13, 2001.

CASE SUMMARY

Claimants alleged the following causes of action against the Respondent, Dean Witter: Breach of Fiduciary Duty, Selling-Away, Failure to Supervise, Failure to Train, Violation of Securities Laws and Breach of Contract. The claims relate to an investment in second mortgages through Bali Financial, Inc. Claimants claim that two brokers for Respondent

induced them to buy second mortgages through Bali Financial and that in doing so these brokers sold away from the Respondent brokerage firm. Claimants seek to have Respondent held liable for their alleged losses in these second mortgages.

Respondent, Dean Witter, denied all allegations and requests set forth in the Statement of Claim. Respondent asserted that any selling away by the brokers was wholly outside the scope of their employment. Respondent further asserts that Claimants were fully aware that the second mortgage investment was unknown to Respondent, it competed against Respondent's interests and involved action taken by Mr. Callaway and the brokers to avoid detection by Respondent. Respondent also asserted affirmative defenses including the following: the actions of the brokers were unauthorized and beyond the scope of their authority; Claimants are barred from any recovery by the doctrine of unclean hands as a result of Claimants actions in secreting the brokers' involvement from Respondent, Dean Witter; Claimants are barred from recovery because of their contributory negligence and because their negligence exceeds the negligence, if any, of Respondent, Dean Witter, (comparative negligence); Claimants are barred from recovery from Respondent because Respondent acted in good faith and did not induce Claimants to invest in Bali Financial.

RELIEF REQUESTED

Claimants requested:

Compensatory Damages	\$450,000.00
Punitive Damages	\$450,000.00
Attorney's Fees	unspecified
Interest	unspecified
Costs	unspecified

Respondent, Dean Witter requested that Claimants take nothing from Dean Witter and that Dean Witter recover all its costs and attorney's fees from Claimants.

OTHER ISSUES CONSIDERED AND DECIDED

Both Claimant and Respondent made a motion for a Directed Verdict after the Claimants finished questioning of their witnesses. After review and consideration, the panel denied the motions.

The parties have 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 post hearing submissions, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondent, Morgan Stanley Dean Witter Inc. is solely liable for and shall pay to the Claimants, F. Ronald Callaway and Patsy Callaway the sum of \$100,000 (One Hundred Thousand Dollars) as Compensatory Damages for Failure to Supervise its brokers;
2. Except as specified otherwise herein, each party shall bear its own costs and attorneys' fees.
3. Any and all relief not specifically addressed herein is, including punitive damages is denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Dispute Resolution, Inc. will retain or collect the non-refundable filing fees for each claim:

Initial Claim Filing Fee	= \$375
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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 that employed the associated person at the time of the events giving rise to the dispute. In this matter, the member firm is Morgan Stanley Dean Witter Inc.

Member surcharge	= \$2,000
Pre-hearing Process Fee	= \$600
Hearing Process Fee	= \$3,500
Total Member Fees	= \$6,100

Forum Fees and Assessments

The arbitrator has the authority to assess forum fees for each hearing session conducted. A hearing session is any meeting between the parties and the arbitrators, including a pre-

hearing conference with the Arbitrator that lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) Pre-hearing sessions with Panel x \$1,200	= \$1,200
Pre-hearing conference(s): March 14, 2000	
Thirteen (13) Hearing session x \$ 1,200	= \$15,600
Hearing Date(s): June 26, 2001	2 sessions
June 27, 2001	2 sessions
June 28, 2001	2 sessions
July 25, 2001	3 sessions
July 26, 2001	2 sessions
July 27, 2001	2 sessions
Total Forum Fees	= \$16,800

The panel has assessed the forum fees in equal shares between the Claimants and the Respondent. Therefore:

1. Claimants, F. Ron Callaway and Patsy Callaway shall pay the sum of \$8,400 in forum fees; and
2. Respondent, Morgan Stanley Dean Witter shall pay the sum of \$8,400 in forum fees.

Fee Summary

1. Claimants, F. Ron Callaway and Patsy Callaway, be and hereby are jointly and severally liable for:

Adjournment Fee	= \$1,200
Forum Fees	= \$8,400
<u>Claim Filing Fee</u>	= \$ 375
Total Fees	= \$ 9,975
<u>Less payments</u>	= \$ 375
Balance Due NASD Dispute Resolution, Inc.	= \$9,600

2. Respondent, Morgan Stanley Dean Witter Inc., be and hereby is solely liable for:

Adjournment Fee	= \$1,200
Forum Fees	= \$8,400
<u>Member Fees</u>	= \$6,100
Total Fees	= \$15,700
<u>Less payments</u>	= \$ 8,300
Balance Due NASD Dispute Resolution, Inc.	= \$ 7,400

All balances are due to NASD Dispute Resolution, Inc.

ARBITRATION PANEL

James A. Hayden	-	Public, Presiding Chair
Darla K. Bartkowiak	-	Non-Public Arbitrator
Shelby A. Beer	-	Public Arbitrator

James A. Hayden
Public Arbitrator, Presiding Chair

Signature Date

Darla K. Bartkowiak
Non-Public Arbitrator, Panelist

Signature Date

Shelby A. Beer
Public Arbitrator, Panelist

Signature Date

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

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Darla K. Bartkowiak	-	Non-Public Arbitrator
Shelby A. Beer	-	Public Arbitrator

James A. Hayden
Public Arbitrator, Presiding Chair

Signature Date

Darla K. Bartkowiak
Non-Public Arbitrator, Panelist

Signature Date


Shelby A. Beer
Public Arbitrator, Panelist

Signature Date

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

ARBITRATION PANEL

James A. Hayden	-	Public, Presiding Chair
Darla K. Bartkowiak	-	Non-Public Arbitrator
Shelby A. Beer	-	Public Arbitrator


James A. Hayden
Public Arbitrator, Presiding Chair

9/11/01
Signature Date

Darla K. Bartkowiak
Non-Public Arbitrator, Panelist

Signature Date

Shelby A. Beer
Public Arbitrator, Panelist

Signature Date

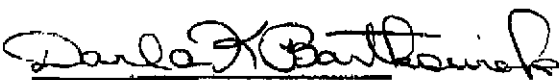
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Darla K. Bartkowiak	-	Non-Public Arbitrator
Shelby A. Beer	-	Public Arbitrator

James A. Hayden
Public Arbitrator, Presiding Chair

Signature Date



Darla K. Bartkowiak
Non-Public Arbitrator, Panelist

9/12/01

Signature Date

Shelby A. Beer
Public Arbitrator, Panelist

Signature Date

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NASD-DR Award
 Arbitration #99-02669
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ARBITRATION PANEL

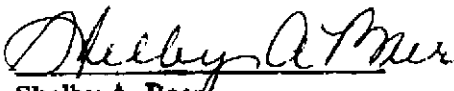
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Darla K. Bartkowiak	-	Non-Public Arbitrator
Shelby A. Beer	-	Public Arbitrator

 James A. Hayden
 Public Arbitrator, Presiding Chair

 Signature Date

 Darla K. Bartkowiak
 Non-Public Arbitrator, Panelist

 Signature Date


 Shelby A. Beer
 Public Arbitrator, Panelist


 September 12, 2001
 Signature Date

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