
Stipulated Award

NASD

In the Matter of the Arbitration Between:

Name of the Claimant

The Zina Modica Rasulo Revocable Trust

Case Number:

99-05163

Names of the Respondents

Morgan Stanley DW, Inc. and Andrew A. Neff

Hearing Site:

Boca Raton, FL

REPRESENTATION OF PARTIES

For The Zina Modica Rasulo Revocable Trust, hereinafter referred to as "Claimant": Tim B. Wright, Esq., Wright Ponsoldt & Lozeau, L.L.P., Stuart, FL.

For Morgan Stanley DW, Inc. ("DW") and Andrew A. Neff ("Neff"), hereinafter collectively referred to as "Respondents": Joseph C. Coates, III, Esq., Greenberg Traurig, West Palm Beach, FL.

CASE INFORMATION

Statement of Claim filed on or about: November 16, 1999.

Claimant signed the Uniform Submission Agreement: November 10, 1999.

Amended Statement of Claim filed on or about: September 25, 2000.

Preliminary Answer and Affirmative Defenses filed by Respondents on or about: April 10, 2000.

Supplemental Answer and Affirmative Defenses filed by Respondents on or about: October 13, 2000.

Respondent Neff signed the Uniform Submission Agreement: March 6, 2000.

Respondent DW did not file an executed Uniform Submission Agreement.

Dispositive Motion for Summary Dismissal of Claimant's Churning Claims filed by Respondents on or about: October 13, 2000.

Motion for Summary Dismissal and To Strike Respondents' Statute of Limitations/Repose Affirmative Defense filed by Claimant on or about: October 31, 2000.

Response to Claimant's Motion for Summary Dismissal and To Strike Statute of Limitations/Repose Affirmative Defense filed by Respondents on or about: November 10, 2000.

Reply to Respondents' Motion for Summary Dismissal of Claimant's Churning Claims filed by Claimant on or about: November 20, 2000.

Motion to Dismiss or Alternative Motion In Limine to Exclude Claimant's Damages Testimony filed by Respondents on or about: March 7, 2001.

CASE SUMMARY

Claimant asserted the following causes of action: breach of fiduciary duty; breach of contract; common law fraud; negligent misrepresentation; negligent supervision; and a violation of Section 517.301, Florida Statutes.

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The causes of action relate to the unauthorized trading of various securities in Claimant's account, including, but not limited to, Morgan Stanley's Emerging Growth Fund.

Unless specifically admitted in their Answer, Respondents denied the allegations made in Claimant's claims and asserted various defenses.

RELIEF REQUESTED

Claimant requested compensatory damages in the amount of \$1,000,000.00, plus interest, costs of this proceeding, and for such other relief deemed necessary and appropriate.

Respondents requested that Claimant's claims be dismissed in their entirety.

OTHER ISSUES CONSIDERED AND DECIDED

Respondent DW did not file with NASD a properly executed submission to arbitration but is required to submit to arbitration pursuant to the NASD Code of Arbitration Procedure (the "Code") and, having answered the claim, is bound by the determination of the undersigned arbitrators (the "Panel") on all issues submitted.

On or about November 22, 2000, Claimant voluntarily withdrew Claimant's Motion for Summary Dismissal and To Strike Respondents' Statute of Limitations/Repose Affirmative Defense.

On or about November 27, 2000, the Panel issued an order that denied Respondents' Dispositive Motion for Summary Dismissal of Claimant's Churning Claims.

On or about December 20, 2000, Claimant filed with NASD a Voluntary Dismissal of Counts II, III, IV, V, and VI Without Prejudice.

On or about December 3, 2001, Claimant filed with NASD a Voluntary Dismissal of Morgan Stanley Dean Witter & Co. and Andrew A. Neff With Prejudice.

On or about June 10, 2002, the parties filed with NASD a Stipulated Motion Directing Expungement as to Andrew Neff, and a proposed Order Directing Entry of Stipulated Award Expunging this Matter as to Respondent Andrew A. Neff, which requested that the Panel expunge all references to this matter from Respondent Neff's registration records maintained by the NASD Central Registration Depository ("CRD"). On or about June 24, 2002, the Panel signed the proposed Order Directing Entry of Stipulated Award Expunging this Matter as to Respondent Andrew A. Neff.

The parties have agreed that the Stipulated Award in this matter may be executed in counterpart copies.

AWARD

After considering the pleadings, the Stipulated Motion Directing Expungement as to Andrew Neff, and the proposed Order Directing Entry of Stipulated Award Expunging this Matter as to Respondent Andrew A. Neff, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

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The Panel recommends the expungement of all references to the above captioned arbitration from Respondent Neff's registration records maintained by the NASD CRD, with the understanding that pursuant to NASD Notices to Members 99-09 and 99-54, Respondent Neff must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD will retain or collect the non-refundable filing fees for each claim:

Initial claim filing fee = \$ 250.00

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 persons at the time of the events giving rise to the dispute. Accordingly, Respondent DW is assessed:

Member surcharge = \$ 1,200.00
Pre-hearing process fee = \$ 600.00
Hearing Process fee = \$ 3,500.00

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

December 20-21, 2000, adjournment requested by Claimant = \$ 1,000.00

1. The Panel has assessed \$500.00 of the adjournment fee to Claimant.
2. The Panel has assessed \$500.00 of the adjournment fee jointly and severally to Respondents.

Injunctive Relief Fees

Injunctive relief fees are assessed to each member or associated person who files for a temporary injunction in court. Parties in these cases are also assessed arbitrator travel expenses and costs when an arbitrator is required to travel outside his or her hearing location and additional arbitrator honoraria for the hearing for permanent injunction. These fees, except the injunctive relief surcharge, are assessed equally against each party unless otherwise directed by the panel.

Injunctive relief fees were not assessed in this matter.

Forum Fees and Assessments

The Panel has assessed forum fees for each session conducted. A session is any meeting between the parties and the Panel, including a pre-hearing conference with the Panel, that lasts four (4) hours or less. Fees associated with these proceedings are:

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Three (3) Pre-hearing sessions with the Panel @ \$ 1,200.00 = \$ 3,600.00

Pre-hearing conferences: August 30, 2000 1 session
 November 22, 2000 1 session
 December 18, 2000 1 session

Total Forum Fees = \$ 3,600.00

1. The Panel has assessed \$ 1,800.00 of the forum fees to Claimant.
2. The Panel has assessed \$ 1,800.00 of the forum fees jointly and severally to Respondents.

Administrative Costs

Administrative costs are expenses incurred due to a request by a party for special services beyond the normal administrative services. These include, but not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

Administrative costs were not incurred in this matter.

Fee Summary

1. Claimant is solely liable for:

| | |
|----------------------|----------------------|
| Initial Filing Fee | = \$ 250.00 |
| Adjournment Fee | = \$ 500.00 |
| <u>Forum Fees</u> | <u>= \$ 1,800.00</u> |
| Total Fees | = \$ 2,550.00 |
| <u>Less payments</u> | <u>= \$ 1,425.00</u> |
| Balance Due NASD | = \$ 1,125.00 |
2. Respondent DW is solely liable for:

| | |
|----------------------|----------------------|
| <u>Member Fees</u> | <u>= \$ 5,300.00</u> |
| Total Fees | = \$ 5,300.00 |
| <u>Less payments</u> | <u>= \$ 4,300.00</u> |
| Balance Due NASD | = \$ 1,000.00 |
3. Respondents are jointly and severally liable for:

| | |
|----------------------|----------------------|
| Adjournment Fee | = \$ 500.00 |
| <u>Forum Fees</u> | <u>= \$ 1,800.00</u> |
| Total Fees | = \$ 2,300.00 |
| <u>Less payments</u> | <u>= \$ 500.00</u> |
| Balance Due NASD | = \$ 1,800.00 |

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

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ARBITRATION PANEL

| | | |
|-------------------|---|-------------------------------|
| Lawrence M. Green | - | Public, Presiding Chairperson |
| Albert Fox | - | Public Arbitrator |
| Cary L. Weissman | - | Non-Public Arbitrator |

Concurring Arbitrators' Signatures

| | |
|--|-------------------------|
| /s/ | 08/14/02 |
| _____ Lawrence M. Green Public Arbitrator, Presiding Chairperson | _____ Signature Date |

| | |
|--|-------------------------|
| /s/ | 08/07/02 |
| _____ Albert Fox Public Arbitrator | _____ Signature Date |

| | |
|--|-------------------------|
| /s/ | 08/05/02 |
| _____ Cary L. Weissman Non-Public Arbitrator | _____ Signature Date |

08/16/02

Date of Service (For NASD office use only)

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FL ARBITRATION

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ARBITRATION PANEL

Lawrence M. Green

Albert Fox

Cary L. Weissman

- Public, Presiding Chairperson

- Public Arbitrator

- Non-Public Arbitrator

Concurring Arbitrators' Signatures

Lawrence M. Green

Public Arbitrator, Presiding Chairperson

Signature Date



Albert Fox

Public Arbitrator

8-7-02

Signature Date

Cary L. Weissman

Non-Public Arbitrator

Signature Date

Date of Service (For NASD office use only)

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ARBITRATION PANEL

Lawrence M. Green

Albert Fox

Cary L. Weissman

Public, Presiding Chairperson

Public Arbitrator

Non-Public Arbitrator

Concurring Arbitrators' Signatures

Lawrence M. Green

Public Arbitrator, Presiding Chairperson

Signature Date

Albert Fox

Public Arbitrator

Signature Date


Cary L. Weissman

Non-Public Arbitrator


Signature Date

Date of Service (For NASD office use only)

FROM :

NASD

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ARBITRATION PANEL

Lawrence M. Green

Albert Fox

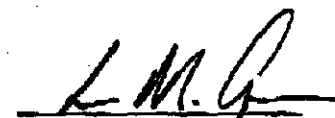
Cary L. Weissman

Public, Presiding Chairperson

Public Arbitrator

Non-Public Arbitrator

Concurring Arbitrators' Signatures



Lawrence M. Green

Public Arbitrator, Presiding Chairperson

08-14-02

Signature Date

Albert Fox

Public Arbitrator

Signature Date

Cary L. Weissman

Non-Public Arbitrator

Signature Date

Date of Service (For NASD office use only)