

[J-126-2003]
IN THE SUPREME COURT OF PENNSYLVANIA
EASTERN DISTRICT

DEUTSCH, LARRIMORE & FARNISH, P.C.,	:	No. 26 EAP 2003
	:	
Appellant	:	Appeal from the Judgment of Superior Court entered on January 22, 2002 at No. 1106 EDA 2001, affirming the Order dated March 14, 2001 in the Court of Common Pleas, Philadelphia County, Civil Division at No. 2846 July Term 1996
v.	:	
JOYCE & WILLIAM JOHNSON AND MORGAN STANLEY DEAN WITTER, INC.,	:	791 A.2d 350 (Pa. Super. Ct. 2002)
	:	
Appellees	:	ARGUED: October 20, 2003
	:	
RUTH S. LIBROS, INTERVENOR	:	

DISSENTING OPINION

MR. CHIEF JUSTICE CAPPY

DECIDED: April 29, 2004

At issue here is whether the Multi-Party Accounts Act (“MPAA”), 20 Pa.C.S. §§ 6301-6306, applies to a brokerage account consisting of securities which was maintained by a stock brokerage investment firm. As I do not believe that Morgan Stanley Dean Witter (“MSDW”), which holds the brokerage account in question, is a “financial institution” per the MPAA, I cannot agree that the MPAA applies. I therefore must respectfully dissent.

As noted by the Opinion Announcing the Judgment of the Court (“OAJC”), the MPAA applies only where there is an “account” held by a “financial institution”. 20 Pa.C.S. § 6301.

“Financial institution” is defined by our MPAA as “any organization authorized to do business under State or Federal laws relating to financial institutions, including, without limitation, banks and trust companies, savings banks, building and loan associations, savings and loan companies or associations and credit unions.” Relying on Black’s Law Dictionary, the majority finds that this definition includes “a broker or dealer registered with the Securities and Exchange Commission [“SEC”]. . . .” OAJC slip op. at 7-8 (citation omitted).

In my view, the OAJC broadens the MPAA’s definition of “financial institution” to the point of distortion. The MPAA goes to great lengths, almost to the point of redundancy, to define “financial institution” as encompassing all types of banks and savings institutions. There is nothing in the plain language, however, which would indicate that the MPAA’s definition of “financial institution” encompasses brokerage firms regulated by the SEC. I believe that by holding that the MPAA’s definition of “financial institution” encompasses SEC-regulated brokerage firms, the majority has not interpreted the MPAA so much as it has rewritten it.

As I would find that the MPAA does not apply to this matter, I would reverse the order of the Superior Court, and remand the matter to that court for it to review any other issues raised before that court on appeal.

Mr. Justice Nigro joins this dissenting opinion.