

Stipulated Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Herbert L. Michel, Jr., Herbert L. Michel, Profit Sharing Plan, Herbert L. Michel, IRAs, Herbert Michel, Your Legal Power, and Herbert L. Michel, IRA Rollovers, Claimants v. Morgan Stanley Dean Witter, Merrill Lynch, Pierce, Fenner & Smith, Inc., and Jason R. Guttenberg, Respondents

Case Number: 00-03833

Hearing Site: Las Vegas, Nevada

Nature of the Dispute: Customers v. Members and Associated Person

REPRESENTATION OF PARTIES

For Claimants

Herbert L. Michel, Jr., Herbert L. Michel,
Profit Sharing Plan, Herbert L. Michel, IRAs,
Herbert Michel, Your Legal Power, Herbert L.
Michel, IRA Rollovers:

Larry D. Simons, Esq.
Sulmeyer Kupetz, A Professional Corporation
Los Angeles, California

For Respondents

Morgan Stanley Dean Witter
and Jason R. Guttenberg:

Anne Tenant Cooney, Esq.
Jeff F. Silverman, Esq.
Morgan Stanley DW Inc.
San Francisco, California

For Respondents

Merrill Lynch, Pierce, Fenner & Smith,
Incorporated and Jason R. Guttenberg:

Dominick F. Evangelista, Esq.
Bressler, Amery & Ross
Morristown, New Jersey

CASE INFORMATION

Claimants Herbert L. Michel, Jr., Herbert L. Michel, Profit Sharing Plan, Herbert L. Michel, IRAs, Herbert Michel, Your Legal Power, and Herbert L. Michel, IRA Rollovers Statement of Claim filed: August 29, 2000

Claimants Herbert L. Michel, Jr., Herbert L. Michel, Profit Sharing Plan, Herbert L. Michel, IRAs, Herbert Michel, Your Legal Power, Herbert L. Michel, IRA Rollovers Amended Statement of Claim filed: April 2, 2002

Claimants John P. Pringle and Timothy J. Yoo on behalf of Herbert L. Michel, Jr., Herbert L. Michel, Profit Sharing Plan, Herbert L. Michel, IRAs, Herbert Michel, Your Legal Power, Herbert L. Michel, IRA Rollovers Second Amended Statement of Claim filed: April 30, 2004

Claimant Herbert L. Michel, Jr.'s Uniform Submission Agreement signed on behalf of all personal accounts, IRA accounts, corporate accounts and profit sharing accounts:
August 29, 2000

Claimant John P. Pringle's Uniform Submission Agreement signed: April 30, 2004

Claimant Timothy J. Yoo's Uniform Submission Agreement signed but not dated

Joint Statement of Answer to Statement of Claim filed by Respondents Merrill Lynch, Pierce, Fenner & Smith, Inc. and Jason R. Guttenberg: November 14, 2000

Joint Statement of Answer to Amended Statement of Claim filed by Respondents Merrill Lynch, Pierce, Fenner & Smith, Inc. and Jason R. Guttenberg: April 17, 2002

Joint Statement of Answer filed by Respondents Dean Witter Reynolds Inc. (also known as Morgan Stanley Dean Witter and Morgan Stanley DW Inc., hereinafter Morgan Stanley DW Inc.) and Jason R. Guttenberg: November 17, 2000

Joint Statement of Answer to Amended Statement of Claim filed by Respondents Morgan Stanley DW Inc. and Jason R. Guttenberg: April 24, 2004

Respondent Morgan Stanley DW Inc.'s Uniform Submission Agreement signed:
October 16, 2000

Respondent Merrill Lynch, Pierce, Fenner & Smith, Inc.'s Uniform Submission Agreement signed: November 14, 2000

CASE SUMMARY

Claimants, in their initial Statement of Claim, alleged breach of contract, breach of fiduciary duty, misrepresentations, omission of facts, negligence and violation of federal securities laws and regulations, involving unspecified securities.

Claimants, in their Amended Statement of Claim, alleged churning, unsuitability, breach of fiduciary duty, failure to supervise, breach of contract, fraudulent misrepresentation, violation of federal securities laws and regulations, and fraud.

Respondents Merrill Lynch, Pierce, Fenner & Smith, Inc. and Jason R. Guttenberg in their initial Answer and in their Answer to Claimants' Amended Statement of Claim, denied the allegations

of wrongdoing set forth in Claimants' Statement of Claim and Amended Statement of Claim and asserted various affirmative defenses.

Respondents Morgan Stanley DW Inc. and Jason R. Guttenberg in their initial Answer and in their Answer to Claimants' Amended Statement of Claim, denied the allegations of wrongdoing set forth in the Claimant's Statement of Claim and Amended Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

In their initial and Amended Statements of Claim, Claimants requested compensatory damages in excess of \$1,000,000.00, unspecified punitive damages, pre-and post-award interest at the maximum rate allowed by law, and costs, including consulting fees, expert witness fees, and attorney's fees.

In their Answer to the Statement of Claim, Respondents Merrill Lynch, Pierce, Fenner & Smith, Inc. and Jason R. Guttenberg requested dismissal of Claimants' Statement of Claim in its entirety, and costs, including attorney's fees. Additionally, Respondent Jason R. Guttenberg requested that all references to this arbitration be stricken from his permanent registration records maintained by NASD's Central Registration Depository ("CRD").

In their Answer to the Amended Statement of Claim, Respondents Merrill Lynch, Pierce, Fenner & Smith, Inc. and Jason R. Guttenberg requested the dismissal of the Amended Statement of Claim in its entirety and costs.

In their Answer to the Statement of Claim, Respondents Morgan Stanley DW Inc. and Jason R. Guttenberg requested dismissal of Claimants' Statement of Claim in its entirety.

In their Answer to the Amended Statement of Claim, Respondents Morgan Stanley Dean Witter Inc. and Jason R. Guttenberg requested dismissal of the Amended Statement of Claim in its entirety.

OTHER ISSUES CONSIDERED AND DECIDED

On February 22, 2002, Claimants filed a Motion to Amend Statement of Claim pursuant to NASD's Code of Arbitration Procedure Rule 10328(c). Respondents submitted letters in opposition to the motion on March 1, 2002 and March 8, 2002. Claimants submitted a reply in support of their motion on March 12, 2002. On March 18, 2002, the Panel granted Claimants' motion.

Respondent Jason R. Guttenberg did not file with NASD Dispute Resolution a properly executed submission agreement, but he is required to submit to arbitration pursuant to NASD's Code of Arbitration Procedure, and having answered the claim, he is bound by the determination of the

Panel on all issues submitted.

In or about May 2003, Claimant Herbert L. Michel, Jr. filed petitions for Chapter 7 bankruptcy on behalf of himself, individually, and on behalf of his professional corporation. Following Mr. Michel's bankruptcy, all claims that were the subject of this arbitration were assigned to Mr. Michel's bankruptcy estates. The trustee for the California Corporation bankruptcy never asserted an interest in the accounts at issue. Therefore, the Chapter 7 Trustee for the Estate of Herbert L. Michel, Jr., an individual, John Pringle, and the Chapter 7 Trustee for the Estate of Herbert L. Michel, Jr., a Professional Corporation, a Nevada Corporation, Timothy Yoo, filed an Amended Statement of Claim in June 2004, substituting themselves as Claimants in this arbitration.

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

In October 2004, the parties entered into an agreement to present to the Panel a Stipulated Award. In May 2005, the United States Bankruptcy Court for the Central District of California, Los Angeles Division, approved the settlement between the parties. After considering the pleadings, and the Parties' request for this Stipulated Award, the Panel decided in full and final resolution of the issues submitted for determination as follows:

1. Claimants and Respondents have entered into a confidential settlement agreement.
2. The Statement of Claim is dismissed in its entirety with prejudice without any finding of fault or liability on the part of Merrill Lynch, Pierce, Fenner & Smith, Inc., Morgan Stanley DW Inc., and Jason R. Guttenberg.
3. The Panel finds that the claim against Jason Guttenberg is without merit and recommends the expungement of all reference to the above captioned arbitration from Respondent Jason R. Guttenberg's registration records maintained by NASD's Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 99-09 and 99-54, Respondent Jason R. Guttenberg must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.
4. Each party shall bear its own costs and expenses associated with the above-referenced arbitration.
5. Any relief not specifically addressed herein 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 = \$375.00

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. is a party, and the following fees are assessed:

Member Surcharge	= \$ 2,000.00
Pre-Hearing Process Fee	= \$ 600.00
Hearing Process Fee	= \$ 3,500.00
Member Fees	= \$ 6,100.00

The member firm Merrill Lynch, Pierce, Fenner & Smith, Incorporated is a party, and the following fees are assessed:

Member Surcharge	= \$ 2,000.00
Pre-Hearing Process Fee	= \$ 600.00
Hearing Process Fee	= \$ 3,500.00
Member Fees	= \$ 6,100.00

Adjournment Fees

The following adjournment fees are assessed:

September 18-19, 2001 adjournment requested by Respondent Merrill Lynch, Pierce, Fenner & Smith, Inc. and Claimants = \$ 1,200.00

The Panel assessed the adjournment fee to Claimants.

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:

Two (2) pre-hearing conference session with a single arbitrator @ \$450.00/session = \$ 900.00

Pre-hearing conference:	August 14, 2002	1 session
	January 21, 2003	1 session

Five (5) pre-hearing conference sessions with the Panel @ \$1,200.00/session = \$ 6,000.00

Pre-hearing conferences:	March 20, 2001	1 session
	April 6, 2001	1 session
	June 6, 2002	1 session
	November 26, 2003	1 session
	August 10, 2004	1 session

Eleven (11) Hearing sessions @ \$1,200.00/session = \$ 13,200.00

Hearings:	March 4, 2003	3 sessions
	March 5, 2003	3 sessions
	March 6, 2003	3 sessions
	March 7, 2003	2 sessions

Total Forum Fees = **\$20,100.00**

1. The Panel assessed \$8,500.00 of the forum fees jointly and severally to Claimants John Pringle and Timothy Yoo.
2. The Panel assessed \$5,500.00 of the forum fees jointly and severally to Respondents Merrill Lynch, Pierce, Fenner & Smith, Incorporated, and Jason R. Guttenberg.
3. The Panel assessed \$5,500.00 of the forum fees jointly and severally to Respondents Morgan Stanley DW Inc. and Jason R. Guttenberg.
4. The Panel assessed \$600.00 of the forum fees jointly and severally to Respondents Morgan Stanley DW Inc., Merrill Lynch, Pierce, Fenner & Smith, Incorporated and Jason R. Guttenberg.

Fee Summary

1. Claimants John R. Pringle and Timothy J. Yoo are charged with the following fees and costs:

Initial Filing Fee	= \$ 375.00
Adjournment Fee	= \$ 1,200.00
Forum Fees	= \$ 8,500.00
Total Fees	= \$ 10,075.00
Less Payments	=(2,775.00)
Balance Due NASD Dispute Resolution	= \$ 7,300.00

2. Respondent Merrill Lynch, Pierce, Fenner & Smith, Inc. is charged with the following fees and costs:

Member Fees	= \$ 6,100.00
Less Payments	= \$ (6,100.00)
Balance Due NASD Dispute Resolution	= \$ 0.00

3. Respondent Morgan Stanley DW Inc. is charged with the following fees and costs:

Member Fees	= \$ 6,100.00
Less Payments	= \$ (6,100.00)
Balance Due NASD Dispute Resolution	= \$ 0.00

4. Respondents Merrill Lynch, Pierce, Fenner & Smith, Incorporated and Jason R. Guttenberg are charged jointly and severally with the following fees and costs:

Forum Fees	= \$ 5,500.00
Less Payments	= \$ (0.00)
Balance Due NASD Dispute Resolution	= \$ 5,500.00

5. Respondents Morgan Stanley DW Inc. and Jason R. Guttenberg are charged jointly and severally with the following fees and costs:

Forum Fees	= \$5,500.00
Less Payments	= \$ (0.00)
Balance Due NASD Dispute Resolution	= \$5,500.00

6. Respondents Morgan Stanley DW Inc., Merrill Lynch, Pierce, Fenner & Smith, Inc. and Jason R. Guttenberg are charged jointly and severally with the following fees and costs:

Forum Fees	= \$600.00
Less Payments	= 0.00
Balance Due NASD Dispute Resolution	= \$600.00

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.

NASD Dispute Resolution

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ARBITRATION PANEL

Edwin C. Shiver

Public Arbitrator, Presiding Chair

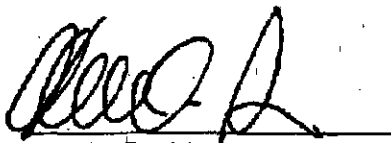
Harry Miller

Public Arbitrator

William R. Rafti

Non-Public Arbitrator

Concurring Arbitrators' Signatures



Edwin C. Shiver
Chair, Public Arbitrator

8/4/2005
Signature Date

Harry Miller
Public Arbitrator

Signature Date

William R. Rafti
Non-Public Arbitrator

Signature Date

8/10/05
Date of Service

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ARBITRATION PANEL

Edwin C. Shiver

Public Arbitrator, Presiding Chair

Harry Miller

Public Arbitrator

William R. Rafti

Non-Public Arbitrator

Concurring Arbitrators' Signatures

Edwin C. Shiver
Chair, Public Arbitrator

Signature Date

Harry Miller

Harry Miller
Public Arbitrator

8-5-05

Signature Date

William R. Rafti
Non-Public Arbitrator

Signature Date

8/10/05

Date of Service

ARBITRATION PANEL

Edwin C. Shiver
Harry Miller
William R. Rafti

Public Arbitrator, Presiding Chair
Public Arbitrator
Non-Public Arbitrator

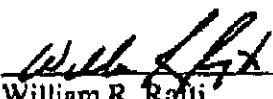
Concurring Arbitrators' Signatures

Edwin C. Shiver
Chair, Public Arbitrator

Signature Date

Harry Miller
Public Arbitrator

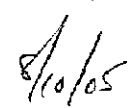
Signature Date



William R. Rafti
Non-Public Arbitrator

8/9/2005

Signature Date



Date of Service