

**Award**  
**NASD Dispute Resolution, Inc.**

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In the Matter of the Arbitration Between:

Jesus Davila , Claimant v. Morgan Stanley Dean Witter, Inc. and Isidro Z. Miramontes,  
Respondents

Case Number: 00-04523

Hearing Site: Los Angeles, California

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**REPRESENTATION OF PARTIES**

For Claimant Jesus Devila:

David J. Cowan, Esq.  
Law Offices of David J. Cowan  
Los Angeles, California

For Respondents Morgan Stanley Dean Witter, Inc.  
and Isidro Z. Miramontes:

Wendy R. Robinson, Esq.  
Morgan Stanley Dean Witter Inc.  
San Francisco, California

**CASE INFORMATION**

Statement of Claim filed: October 9, 2000

Claimant Jesus Davila's Uniform Submission Agreement signed: October 4, 2000

Joint Statement of Answer filed by Respondents: December 28, 2000

Respondent Morgan Stanley Dean Witter, Inc.'s Uniform Submission Agreement signed:  
December 28, 2000

Respondent Isidro Z. Miramontes' Uniform Submission Agreement signed: March 31, 2001

**CASE SUMMARY**

Claimant alleged breach of contract, breach of fiduciary duty, unauthorized trading, and failure to supervise involving the sale of shares in Morgan Stanley Dean Witter, Inc. and the purchase of shares in the Morgan Stanley Dean Witter Dividend Growth Fund.

Respondents denied the allegations of wrongdoing set forth in the Claimant's Statement of Claim.

### **RELIEF REQUESTED**

Claimant requested compensatory damages of approximately \$70,000.00, the value of all reinvested dividends of 525 shares of stock in Morgan Stanley Dean Witter, Inc. from the date said shares were sold to the date of the hearing, and costs, including attorney's fees.

Respondents requested dismissal of the Claimant's Statement of Claim in its entirety and costs, including attorney's fees.

### **OTHER ISSUES CONSIDERED AND DECIDED**

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**

After considering the pleadings, testimony, and evidence presented at the hearing, the Panel decided in full and final resolution of the issues submitted for determination as follows:

- 1) Claimant's claims are denied in their entirety.
- 2) The parties shall bear their respective costs, including attorney's fees.
- 3) All other relief requested and not expressly granted is denied.

### **FEES**

Pursuant to the Code, the following fees are assessed:

#### **Filing Fees**

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

Initial claim filing fee	= \$ 225.00
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#### **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 Dean Witter, Inc. is a party and the following fees are assessed:

Member Surcharge	= \$1,000.00
Pre-Hearing Process Fee	= \$ 600.00
<u>Hearing Process Fee</u>	= \$1,500.00
<b>Total Member Fees</b>	<b>= \$3,100.00</b>

#### **Forum Fees and Assessments**

The Arbitrator 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 Chair/Panel. The following fees are assessed:

One (1) Pre-hearing conference session with a single arbitrator @ \$ 450.00/session	= \$ 450.00
Pre-hearing conference: May 11, 2001 1 session	

Two (2) Pre-hearing conference sessions with the Panel @ \$750.00/session	= \$1,500.00
Pre-hearing conferences: April 18, 2001 1 session	
March 8, 2002 1 session	

Two (2) Hearing sessions @ \$750.00/session	= \$1,500.00
Hearing: May 13, 2002 2 sessions	

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<b>Total Forum Fees</b>	<b>= \$3,450.00</b>
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1. The Panel assessed \$690.00 of the forum fees to Claimant Jesus Davila.
2. The Panel assessed \$2,760.00 of the forum fees to Respondent Morgan Stanley Dean Witter, Inc.

**Fee Summary**

1. Claimant, Jesus Davila, is charged with the following fees and costs:

Initial Filing Fee	= \$ 225.00
<u>Forum Fees</u>	= \$ 690.00
Total Fees	= \$ 915.00
<u>Less payments</u>	= \$ (975.00)
<b>Refund Due from NASD Dispute Resolution, Inc.</b>	<b>= \$ ( 60.00)</b>

2. Respondent, Morgan Stanley Dean Witter, Inc., is charged with the following fees and costs:

Member Fees	= \$ 3,100.00
<u>Forum Fees</u>	= \$ 2,760.00
Total Fees	= \$ 5,860.00
<u>Less payments</u>	= \$(3,100.00)
<b>Balance Due NASD Dispute Resolution, Inc.</b>	<b>= \$ 2,760.00</b>

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

**ARBITRATION PANEL**

<i>Melvin S. Feldman, Esq.</i>	-	<i>Public Arbitrator, Presiding Chair</i>
<i>Roland J. Davidson</i>	-	<i>Public Arbitrator</i>
<i>Barton J. Brewer</i>	-	<i>Non-Public Arbitrator</i>

**Concurring Arbitrators' Signatures**

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Melvin S. Feldman, Esq.  
Chair, Public Arbitrator

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Signature Date

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Roland J. Davidson  
Public Arbitrator

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Signature Date

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Barton J. Brewer  
Non-Public Arbitrator

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Signature Date

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Date of Service

**ARBITRATION PANEL**

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<i>Roland J. Davidson</i>	-	<i>Public Arbitrator</i>
<i>Barton J. Brewer</i>	-	<i>Non-Public Arbitrator</i>

**Concurring Arbitrators' Signatures**

*Melvin S. Feldman*

Melvin S. Feldman, Esq.  
Chair, Public Arbitrator

6-14-02

Signature Date

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Roland J. Davidson  
Public Arbitrator

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Signature Date

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Barton J. Brewer  
Non-Public Arbitrator

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Signature Date

6-17-02  
Date of Service

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Roland J. Davidson	-	Public Arbitrator
Barton J. Brewer	-	Non-Public Arbitrator

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Melvin S. Feldman, Esq.  
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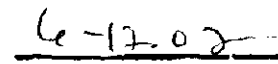
Roland J. Davidson  
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NASD Dispute Resolution, Inc.  
Arbitration No. 00-04523  
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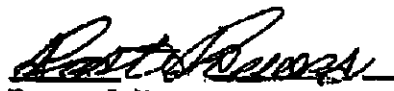
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