

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Nugzar Lataria (Claimant) v. Morgan Stanley DW, Inc. and Oleg Domantovski
(Respondents)

Case Number: 00-04843

Hearing Site: New York, New York

Nature of the Dispute: Customer vs. Member and Associated Person.

REPRESENTATION OF PARTIES

Claimant Nugzar Lataria ("Lataria") hereinafter referred to as "Claimant": Robert Beers, Esq., Selden, NY. Previously represented by: Ben Kinzler, Esq., Great Neck, NY, and Lance Crofoot-Suede, Esq., Squadron, Ellenoff, Plesent & Sheinfeld, LLP, n/k/a Hogan & Hartson, LLP, New York, NY.

Respondent Morgan Stanley DW, Inc. ("MSDW"): James D. Yellen, Esq., Morgan Stanley DW, Inc., New York, NY.

Respondent Oleg Domantovski ("Domantovski"): Bradford D. Kaufman, Esq., Greenberg Traurig, P.A., West Palm Beach, FL. Previously represented by: James D. Yellen, Esq., Morgan Stanley DW, Inc., New York, NY.

CASE INFORMATION

Statement of Claim filed on or about: November 1, 2000.

Claimant signed the Uniform Submission Agreement: October 20, 2000.

Joint Statement of Answer filed by MSDW and Domantovski, hereinafter collectively referred to as "Respondents," on or about: January 19, 2001.

MSDW signed the Uniform Submission Agreement: January 18, 2001.

Domantovski did not sign the Uniform Submission Agreement.

CASE SUMMARY

Claimant asserted the following causes of action: common law fraud; negligent misrepresentation; breach of fiduciary duty; breach of contract; failure to supervise; and failure to execute. Claimant's claim involved shares of CMGI and Vnesheconombank.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

Claimant requested compensatory damages in the amount of \$1,500,000.00, plus interest, attorneys' fees, and costs.

Respondents requested dismissal of this proceeding, and award in their favor, an order of expungement of Domantovski's CRD record of this claim, and attorneys' fees, costs and disbursements of this proceeding.

OTHER ISSUES CONSIDERED AND DECIDED

Respondent Domantovski did not file with NASD Dispute Resolution a properly executed Uniform Submission Agreement but is required to submit to arbitration pursuant to the Code and, having answered the claim, appeared and testified at the hearing, is bound by the determination of the Panel on all issues submitted.

The arbitrators reviewed all submissions and considered all oral arguments made during the telephonic pre-hearing conference conducted on January 13, 2004 regarding Respondents' Motion to Dismiss and determined, as stated in the Award section below, to grant the Motion, without prejudice.

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

1. In response to Respondents' Motion to Dismiss without prejudice, the panel grants said Motion. Claimant has the right to reassert the claims set forth in this matter in a future action as long as he is within the applicable statute of limitations.
2. Respondents do not waive their right to assert a statute of limitations defense in any future action filed by Claimant encompassing the subject matter of this case.
3. Any and all relief not specifically addressed herein is denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

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

Initial claim filing fee = \$ 500.00

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 person at the time of the events giving rise to the dispute. Accordingly, Morgan Stanley DW, Inc. is a party.

Member surcharge = \$2,500.00

Pre-hearing process fee = \$ 600.00

Hearing process fee = \$4,500.00

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

August 20 and 21, 2002, adjournment by Claimant = \$1,200.00

August 13, 14, and 15, 2003, adjournment by Claimant = \$1,500.00

Forum Fees and Assessments

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

Three (3) Pre-hearing sessions with a single arbitrator @ \$450.00 = \$1,350.00

Pre-hearing conferences:

January 16, 2002	1 session
January 29, 2002	1 session
April 22, 2003	1 session

Five (5) Pre-hearing sessions with Panel @ \$1,200.00 = \$6,000.00

Pre-hearing conferences:

May 2, 2001	1 session
December 5, 2001	1 session
February 24, 2003	1 session
July 24, 2003	1 session
January 13, 2004	1 session

Two (2) Hearing sessions @ \$1,200.00 = \$2,400.00

Hearing Date: August 19, 2002 2 sessions

Total Forum Fees = \$9,750.00

1. The Panel has assessed \$9,750.00 of the forum fees against Claimant.

Fee Summary

1. Claimant is solely liable for:

Initial Filing Fee	= \$ 500.00
Adjournment Fee	= \$ 2,700.00
Forum Fees	= \$ 9,750.00
Total Fees	= \$12,950.00
<u>Less payments</u>	<u>= \$ 4,400.00</u>
Balance Due NASD Dispute Resolution	= \$ 8,550.00

2. MSDW is solely liable for:

Member Fees	= \$7,600.00
Total Fees	= \$7,600.00
<u>Less payments</u>	<u>= \$7,600.00</u>
Balance Due NASD Dispute Resolution	= \$ 0.00

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

ARBITRATION PANEL

Cheryl H. Agnis, PhD	-	Public Arbitrator, Presiding Chair
Kenneth M. Felder	-	Public Arbitrator
Preston V. Pumphrey	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

I, the undersigned arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument, which is my award.

Cheryl H. Agnis
Cheryl H. Agnis, PhD
Public Arbitrator, Presiding Chairperson

Feb. 3, 2004
Signature Date

Kenneth M. Felder
Public Arbitrator

Signature Date

Preston V. Pumphrey
Non-Public Arbitrator

Signature Date

February 6, 2004

Date of Service (For NASD Dispute Resolution use only)

ARBITRATION PANEL

Cheryl H. Agris, PhD	-	Public Arbitrator, Presiding Chair
Kenneth M. Felder	-	Public Arbitrator
Preston V. Pumphrey	-	Non-Public Arbitrator

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Cheryl H. Agris, PhD
Public Arbitrator, Presiding Chairperson

Signature Date

Kenneth M. Felder
Public Arbitrator

Signature Date



Preston V. Pumphrey
Non-Public Arbitrator

01-30-2004

Signature Date

February 6, 2004

Date of Service (For NASD Dispute Resolution use only)