

**Award
NASD**

In the Matter of the Arbitration Between:

Name of the Claimant

Steven I. Hershkowitz

Case Number: 01-03176

Names of the Respondents

Morgan Stanley DW, Inc.

Michael Arundel

Hearing Site: Boca Raton, Florida

REPRESENTATION OF PARTIES

For Steven I. Hershkowitz ("Hershkowitz"), hereinafter referred to as "Claimant": Kim Steven Juhase, Novak & Juhase, Roseland, New Jersey.

For Morgan Stanley DW, Inc. ("MSDW") and Michael Arundel ("Arundel"), hereinafter referred to as "Respondents": Gary E. Jackson, Vice President/Senior Attorney, Morgan Stanley DW, Inc., New York, New York.

CASE INFORMATION

Statement of Claim filed on or about: June 8, 2001.

Claimant signed the Uniform Submission Agreement: May 23, 2001.

Statement of Answer filed by Respondents on or about: August 30, 2001.

Respondent MSDW signed the Uniform Submission Agreement: August 30, 2001.

Respondent Arundel did not file an executed Uniform Submission Agreement.

CASE SUMMARY

Claimant asserted the following causes of action: 1) breach of fiduciary duty; 2) unsuitability; 3) negligence; and 4) violation of Florida's Securities and Investor Protection Act. The causes of action relate to the purchase of unspecified high technology stocks in Claimant's account.

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

RELIEF REQUESTED

Claimant requested compensatory damages of \$80,000.00, plus interest and attorney's fees.

Respondents requested that all claims against them be dismissed, that Respondents be granted the costs and expenses of this arbitration, and such other and further relief as is deemed just and proper. In addition, at the evidentiary hearing, Respondents requested that all references to this matter be expunged from their NASD Central Registration Depository ("CRD") records.

OTHER ISSUES CONSIDERED AND DECIDED

Respondent Arundel 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, appeared and testified at the hearing, is bound by the determination of the undersigned arbitrators (the "Panel") on all issues submitted.

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

AWARD

After considering the pleadings, the testimony and evidence presented at the hearing, and the post-hearing submissions (if any), the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Claimant's claims are dismissed with prejudice.
2. Claimant's requests for relief pursuant to Florida's Securities and Investor Protection Act are specifically denied.
3. Any and all claims for relief not specifically addressed herein are denied.
4. Each party shall bear their own costs and attorney's fees.
5. The Panel recommends the expungement of all references to the above captioned arbitration from Respondents MSDW's and Arundel's registration records maintained by the NASD CRD, with the understanding that pursuant to NASD Notices to Members 99-09 and 99-54, Respondents MSDW and Arundel 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	= \$225.00
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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	= \$1,000.00
Pre-hearing process fee	= \$ 600.00
Hearing process fee	= \$1,500.00

Adjournment Fees

No adjournments were granted during these proceedings for which fees were assessed.

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.

No injunctive relief fees were incurred during this proceeding.

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:

One (1) Pre-hearing session with Panel @ \$750.00	= \$ 750.00
Pre-hearing conference: March 18, 2002	1 session
Four (4) Hearing sessions @ \$750.00	= \$3,000.00
Hearing Dates: October 15, 2002	2 sessions
October 16, 2002	2 sessions
Total Forum Fees	= \$3,750.00

The Panel has assessed the total forum fees of \$3,750.00 to Claimant.

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 are not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

No administrative fees were incurred during this proceeding.

Fee Summary

1. Claimant is solely liable for:	
Initial Filing Fee	= \$ 225.00
<u>Forum Fees</u>	<u>= \$3,750.00</u>
Total Fees	= \$3,975.00
<u>Less payments</u>	<u>= \$ 975.00</u>
Balance Due NASD	= \$3,000.00
2. Respondent MSDW is solely liable for:	
<u>Member Fees</u>	<u>= \$3,100.00</u>
Total Fees	= \$3,100.00

<u>Less payments</u>	= \$3,100.00
<u>Balance Due NASD</u>	= \$ 0.00

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

ARBITRATION PANEL

<i>Debra A. Byrne-Mathews</i>	-	<i>Public Arbitrator, Presiding Chairperson</i>
<i>William R. Alheim</i>	-	<i>Public Arbitrator</i>
<i>Howard L. Cohan</i>	-	<i>Non-Public Arbitrator</i>

Concurring Arbitrators' Signatures

/s/
Debra A. Byrne-Mathews
Public Arbitrator, Presiding Chairperson

Signature Date

/s/
William R. Alheim
Public Arbitrator

Signature Date

/s/
Howard L. Cohan
Non-Public Arbitrator

Signature Date

November 26, 2002

Date of Service (For NASD Dispute Resolution office use only)

Less payments	= \$3,100.00
Balance Due NASD	= \$ 0.00

All balances are payable to NASD and are due upon receipt pursuant to Rule 10350(e) of the Code.

ARBITRATION PANEL

Debra A. Byrne-Mathews	-	Public Arbitrator, Presiding Chairperson
William R. Alheim	-	Public Arbitrator
Howard L. Cohan	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

Debra Byrne-Mathews
Debra A. Byrne-Mathews
Public Arbitrator, Presiding Chairperson

11/21/02
Signature Date

William R. Alheim
Public Arbitrator

Signature Date

Howard L. Cohan
Non-Public Arbitrator

Signature Date

Date of Service (For NASD Dispute Resolution office use only)

Less payments	<u>85,100.00</u>
Balance Due NASD	<u>5 00</u>

All balances are payable to NASD and are due upon receipt pursuant to Rule 10530(g) of the Code.


ARBITRATION PANEL

Debra A. Byrne-Mathews	Public Arbitrator, Presiding Chairperson
William R. Alheim	Public Arbitrator
Howard L. Cohan	Non-Public Arbitrator

Concurring Arbitrators' Signatures

Debra A. Byrne-Mathews
Public Arbitrator, Presiding Chairperson

Signature Date



William R. Alheim
Public Arbitrator

11-21-02

Signature Date

Howard L. Cohan
Non-Public Arbitrator

Signature Date

Date of Service (For NASD Dispute Resolution office use only)

<u>Less payments</u>	= \$3,100.00
Balance Due NASD	= \$ 0.00

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

ARBITRATION PANEL

<i>Debra A. Byrne-Mathews</i>	-	<i>Public Arbitrator, Presiding Chairperson</i>
<i>William R. Alheim</i>	-	<i>Public Arbitrator</i>
<i>Howard L. Cohan</i>	-	<i>Non-Public Arbitrator</i>

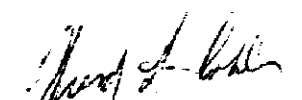
Concurring Arbitrators' Signatures

Debra A. Byrne-Mathews
Public Arbitrator, Presiding Chairperson

Signature Date

William R. Alheim
Public Arbitrator

Signature Date



Howard L. Cohan
Non-Public Arbitrator

Nov 22, 2002

Signature Date

Date of Service (For NASD Dispute Resolution office use only)