

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Names of the Claimants:
Robert and Susan Martel
Robert Martel

Case Number: 02-01999

Names of the Respondents:
Morgan Stanley DW Inc.
Christopher Ayer
Thomas E. Lanter

Hearing Site: Boston, Massachusetts

REPRESENTATION OF PARTIES

Claimants, Robert and Susan Martel, ("R&SM"), Robert Martel ("RM"), hereinafter collectively referred to as "Claimants": Arnold Rosenblatt, Esq., Cook, Little, Rosenblatt & Manson, PLLC, Manchester, NH.

Respondents, Morgan Stanley, DW Inc. ("MSDW"), Christopher Ayer ("Ayer"), Thomas E. Lanter ("Lanter"), hereinafter collectively referred to as "Respondents": Gary E. Jackson, Morgan Stanley DW Inc., New York, NY.

CASE INFORMATION

Statement of Claim filed, on or about: April 4, 2002.

Claimants signed the Uniform Submission Agreement: April 2, 2002.

Joint Statement of Answer filed by Respondents, on or about: May 31, 2003.

Respondent MSDW, signed the Uniform Submission Agreement: June 17, 2002.

Respondent Ayer, signed the Uniform Submission Agreement: June 18, 2002.

Respondent Lanter, signed the Uniform Submission Agreement: June 18, 2002.

CASE SUMMARY

Claimants asserted the following causes of action: for a first count, breach of contract against MSDW and Ayer; for a second count, violations of NASD Rules and Securities and Exchange Commission Rules; for a third count, negligence; for a fourth count, breach of fiduciary duty; for a fifth count, fraudulent and negligent misrepresentation; for a sixth count, misrepresentations and omissions; for a seventh count, violation of N.H. RSA 421-B; for an eighth count, violation of N.H. RSA 358-A; for a ninth count,

negligent supervision against MSDW and Lanter; for a tenth count, respondeat superior against MSDW and Lanter. Claimants' claim involved various unspecified stock.

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

RELIEF REQUESTED

Claimants requested an amount of \$853,569.00 in actual damages, \$1,707,138.00 in punitive damages, costs, interest at four-point-four (4.4) percent, attorney's fees, and any such other relief as the Panel deemed just and proper.

Respondents requested that all claims against them be dismissed in their entirety, and that they be awarded the costs and expenses of the arbitration and any such other relief as the Panel deemed just and proper.

OTHER ISSUES CONSIDERED AND DECIDED

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, 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. Claimants' claims are hereby denied in their entirety.
2. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Lanter's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notices to Members 99-09 and 99-54, Respondent Lanter must obtain confirmation from a court of competent jurisdiction before CRD will execute the expungement directive.
3. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Ayer's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notices to Members 99-09 and 99-54, Respondent Ayer must obtain confirmation from a court of competent jurisdiction before CRD will execute the expungement directive.

4. Any and all relief not specifically addressed herein, including punitive damages 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
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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 persons at the time of the events giving rise to the dispute. Morgan Stanley DW Inc. is a member firm that is a party.

Member surcharge	= \$2,800.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$5,000.00

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:

One (1) Pre-hearing session with Panel @ \$1,200.00	= \$1,200.00
Pre-hearing conference: November 20, 2002	1 session
Five (5) Hearing sessions @ \$1,200.00	= \$6,000.00
Hearing Dates: June 3, 2003	2 sessions
June 4, 2003	2 sessions
June 5, 2003	1 session
Total Forum Fees	= \$7,200.00

1. The Panel has assessed \$3,600.00 of the forum fees against Claimants.
2. The Panel has assessed \$3,600.00 of the forum fees against MSDW.

Fee Summary

1. Claimants are solely liable for:

Initial Filing Fee	= \$ 500.00
Forum Fees	= \$3,600.00
Total Fees	= \$4,100.00
<u>Less payments</u>	<u>= \$1,700.00</u>
Balance Due NASD Dispute Resolution	= \$2,400.00

2. Respondent MSDW is solely liable for:

Member Fees	= \$ 8,550.00
Forum Fees	= \$ 3,600.00
Total Fees	= \$12,150.00
<u>Less payments</u>	<u>= \$ 8,550.00</u>
Balance Due NASD Dispute Resolution	= \$ 3,600.00

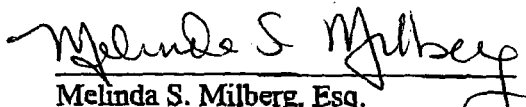
All balances are payable to NASD Dispute Resolution and are due upon receipt pursuant to Rule 10330(g) of the Code.

ARBITRATION PANEL

Melinda S. Milberg, Esq.	-	Public Arbitrator, Presiding Chairperson
Edward R. Wiest, Esq.	-	Public Arbitrator
Christine Armstrong, Esq.	-	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 ~~the~~ which is my award.



Melinda S. Milberg, Esq.
Public Arbitrator, Presiding Chairperson

7/8/03

Signature Date

Edward R. Wiest, Esq.
Public Arbitrator

Signature Date

Christine Armstrong, Esq.
Non-Public Arbitrator

Signature Date

July 24, 2003
Date of Service (For NASD Dispute Resolution use only)

ARBITRATION PANEL


Melinda S. Milberg, Esq. - Public Arbitrator, Presiding Chairperson
Edward R. Wiest, Esq. - Public Arbitrator
Christine Armstrong, Esq. - 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 in which is my award.

Melinda S. Milberg, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date



Edward R. Wiest, Esq.
Public Arbitrator

 2003

Signature Date

Christine Armstrong, Esq.
Non-Public Arbitrator

Signature Date

July 24, 2003
Date of Service (For NASD Dispute Resolution use only)

ARBITRATION PANEL

Melinda S. Milberg, Esq.	•	Public Arbitrator, Presiding Chairperson
Edward R. Wiest, Esq.	•	Public Arbitrator
Christine Armstrong, Esq.	•	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 reward.

Melinda S. Milborg, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

Edward R. West, Esq.
Public Arbitrator

Signature Date


Christine Armstrong, Esq.
Non-Public Arbitrator

7/8/03
Signature Date

July 24, 2003
Date of Service (For NASD Dispute Resolution use only)