

**Stipulated Award
NASD Dispute Resolution**

In the Matter of the Arbitration Between:

Names of the Claimants

Samantha Stackhouse
R. Kenneth Stackhouse
Sean Stackhouse

Case Number: 02-04597

Names of the Respondents

Morgan Stanley DW Inc.
William Ulivitch

Hearing Site: Philadelphia, Pennsylvania

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

REPRESENTATION OF PARTIES

Claimants, Samantha Stackhouse, R. Kenneth Stackhouse and Sean Stackhouse, hereinafter collectively referred to as "Claimants", were represented by Christopher B. Jones, Esq., Law Office of Christopher B. Jones, P.C., Scranton, Pennsylvania.

Respondents, Morgan Stanley DW Inc. ("Morgan Stanley") and William Ulivitch ("Ulivitch"), hereinafter collectively referred to as "Respondents", were represented by William D. Briendel, Esq., Greenberg Traurig, LLP, New York, New York.

CASE INFORMATION

Statement of Claim filed on August 2, 2002.

Claimant Samantha Stackhouse signed the Uniform Submission Agreement on September 12, 2002.

Claimant R. Kenneth Stackhouse signed the Uniform Submission Agreement on September 12, 2002.

Claimant Sean Stackhouse signed the Uniform Submission Agreement on September 12, 2002.

Statement of Answer filed by Respondents on December 13, 2002.

Respondents did not file signed Uniform Submission Agreements with NASD Dispute Resolution.

CASE SUMMARY

Claimants asserted the following causes of action, among others: misrepresentations and omissions, violation of Section 10(b) and Rule 10b-5; unauthorized and excessive trading, excessive and inappropriate use of margin, unsuitability, fraud, breach of fiduciary duty, failure to supervise, and *respondeat superior*. The causes of action relate to the purchase and sale of various unspecified securities.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted the following defenses, among others: failure to state a claim

upon which relief may be granted; Claimants approved of, ratified, participated in and authorized all of the transactions at issue with full knowledge and consent, and therefore are not entitled to any relief under the doctrines of waiver, estoppel and ratification; Claimants' losses, if any, were not proximately caused by Respondents; Claimants' accounts were handled in accordance with all applicable brokerage industry standards; and Claimants' claims fail as a matter of law and under the circumstances of this case.

RELIEF REQUESTED

Claimants requested the following damages:

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|----------------------|--------------------|
| Compensatory Damages | \$ 1,992,000.00 |
| Punitive Damages | amount unspecified |
| Attorneys' Fees | amount unspecified |
| Other Costs | amount unspecified |

Respondents requested that the Arbitration Panel (the "Panel") dismiss the claim in its entirety and order the expungement of the matter from Respondent Ulivitch's Central Registration Depository ("CRD") records.

OTHER ISSUES CONSIDERED AND DECIDED

Respondents Morgan Stanley and Ulivitch did not file with NASD Dispute Resolution properly executed submissions to arbitration but are required to submit to arbitration pursuant to the Code and, having answered the claim are bound by the determination of the Panel on all issues submitted.

At the hearing, the Parties fully and finally settled all claims by and between them. Therefore, the Parties submit this Stipulated Award to the Panel for its consideration and request that it be entered.

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

AWARD

Pursuant to the above, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. The listed parties have amicably resolved their differences and have requested this Stipulated Award;
2. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Ulivitch'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 Ulivitch must obtain confirmation

from a court of competent jurisdiction before the CRD will execute the expungement directive;

3. The parties shall bear their respective costs, including attorneys' fees, except as Fees are specifically addressed below; and
4. Any and all relief not specifically addressed herein, including punitive damages, is denied in its entirety.

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 firms that employed the associated person(s) at the time of the events giving rise to the dispute. Accordingly, Respondent Morgan Stanley is a party.

| | |
|----------------------------|----------------------|
| Member surcharge | = \$ 2,800.00 |
| Pre-hearing process fee | = \$ 750.00 |
| <u>Hearing process fee</u> | <u>= \$ 5,000.00</u> |
| Total Member Fees | = \$ 8,550.00 |

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

April 27 - 29, 2004, adjournment by Respondents = \$ 1,200.00

Forum Fees and Assessments

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

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|--|-------------|
| Two (2) Pre-hearing sessions with a single arbitrator @ \$ 450 | = \$ 900.00 |
| Pre-hearing conferences: January 12, 2004 1 session | |
| September 22, 2004 1 session | |

| | |
|--|---------------|
| Two (2) Pre-hearing sessions with Panel @ \$ 1,200 | = \$ 2,400.00 |
| Pre-hearing conferences: May 30, 2003 1 session | |
| July 26, 2004 1 session | |

| | |
|-------------------------------------|---------------|
| Two (2) Hearing sessions @ \$ 1,200 | = \$ 2,400.00 |
|-------------------------------------|---------------|

Hearing Date: December 20, 2004 2 sessions
Total Forum Fees = \$ 5,700.00

1. The Panel has assessed \$ 2,850.00 of the forum fees jointly and severally to Claimants.
2. The Panel has assessed \$ 2,850.00 of the forum fees jointly and severally to Respondents.

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

1. Respondents requested tape duplication = \$ 15.00

EEE SUMMARY

Claimants are jointly and severally assessed and shall pay:

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|-------------------------------------|---------------|
| Initial Filing Fee | = \$ 500.00 |
| Forum Fees | = \$ 2,850.00 |
| Total Fees | = \$ 3,350.00 |
| Less payments | = \$ 1,700.00 |
| Balance Due NASD Dispute Resolution | = \$ 1,650.00 |

Respondent, Morgan Stanley, is assessed and shall pay:

| | |
|-------------------------------------|---------------|
| Member Fees | = \$ 8,550.00 |
| Total Fees | = \$ 8,550.00 |
| Less payments | = \$ 8,550.00 |
| Balance Due NASD Dispute Resolution | = \$ 00.00 |

Respondents, Morgan Stanley and Ulivitch, are jointly and severally assessed and shall pay:

| | |
|-------------------------------------|---------------|
| Forum Fees | = \$ 2850.00 |
| Adjournment Fees | = \$ 1,200.00 |
| Administrative Costs | = \$ 15.00 |
| Total Fees | = \$ 4,065.00 |
| Less payments | = \$ 15.00 |
| Balance Due NASD Dispute Resolution | = \$ 4,050.00 |

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

ARBITRATION PANEL

| | | |
|---------------------|---|--|
| Diane Ciccone, Esq. | - | Public Arbitrator, Presiding Chairperson |
| Patricia Bird Reed | - | Public Arbitrator, Panelist |
| Michael D. Neft | - | Non-Public Arbitrator, Panelist |

Concurring Arbitrators' Signatures

Diane Ciocone

Diane Ciocone, Esq.
Public Arbitrator, Presiding Chairperson

3/25/05
Signature Date

Patricia Bird Reed
Public Arbitrator, Panelist

Signature Date

Michael D. Neft
Non-Public Arbitrator, Panelist

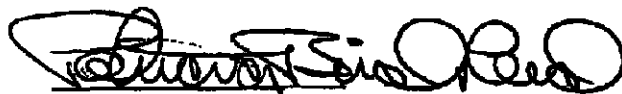
Signature Date

April 5, 2005
Date of Service (For NASD Dispute Resolution office use only)

Concurring Arbitrators' Signatures

Diane Ciccone, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date



Patricia Bird Reed
Public Arbitrator, Panelist

4/7/05
Signature Date

Michael D. Neft
Non-Public Arbitrator, Panelist

Signature Date

April 5, 2005
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Concurring Arbitrators' Signatures

Diane Ciccone, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

Patricia Bird Reed
Public Arbitrator, Panelist

Signature Date


Michael D. Neft
Non-Public Arbitrator, Panelist

Signature Date

April 5, 2005
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