

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimants

John T. Calderaio
Christina M. Calderaio

Case Number: 02-04632

Name of the Respondents

Morgan Stanley, DW, Inc.
Chris Schell
Schell/Kessler/Baker Group
Edward Kain

Hearing Site: Philadelphia, PA

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

REPRESENTATION OF PARTIES

Claimants, John T. Calderaio and Christina M. Calderaio, hereinafter collectively referred to as "Claimants", were represented by Douglas R. Lally, Esq., Attorney-at-Law, Jenkintown, Pennsylvania..

Respondents, Morgan Stanley, DW, Inc. ("Morgan Stanley"), Chris Schell ("Schell"), Schell/Kessler/Baker Group ("SKB"), and Edward Kain ("Kain"), hereinafter collectively referred to as "Respondents", were represented by Thomas M. Keane, Esq., in-house counsel for Morgan Stanley, New York, New York.

CASE INFORMATION

Statement of Claim filed on August 5, 2002.

Claimants signed the Uniform Submission Agreement on October 11, 2001.

Joint Statement of Answer filed by Respondents on November 7, 2002.

A representative for Respondent, Morgan Stanley, signed the Uniform Submission Agreement on November 7, 2002.

Respondents Schell, SKB and Kain did not file signed Uniform Submission Agreements.

CASE SUMMARY

Claimants asserted the following causes of action, among others: breach of fiduciary duty;

suitability; misrepresentation; and, omission of material facts. The causes of action relate to the purchase 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: that the Statement of Claim fails to state a claim upon which relief may be granted; that the actions and omissions of Claimants caused their alleged damages; ratification; estoppel; failure to mitigate; and, statutes of limitations.

RELIEF REQUESTED

Claimants requested:

Compensatory Damages	\$100,000
Punitive Damages	included in above amount
Interest	amount unspecified
Other Costs	amount unspecified

In their Statement of Answer, Respondents requested that the claims be dismissed in their entirety and that they be awarded costs and expenses.

OTHER ISSUES CONSIDERED AND DECIDED

Respondents Schell and Kain 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, appeared and testified at the hearing are bound by the determination of the Panel on all issues submitted.

Respondent SKB is not a member of NASD.

At the hearing Claimant moved for a Default Judgement against Respondent Kain. The motion was denied at the close of evidence.

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

AWARD

After considering the pleadings, 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. All claims against Respondents Morgan Stanley, Schell, S/K/B and Kain are denied in their entirety;

2. The parties shall bear their respective costs, including attorneys' fees, except as Fees are specifically addressed below; and,
3. 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 = \$225.00

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 is a party.

Member surcharge	= \$1,100.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$1,700.00

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:

One (1) Pre-hearing session(s) with a single arbitrator @ \$450.00	= \$450.00
Pre-hearing conference(s): July 10, 2003 1 session	
One (1) Pre-hearing session with Panel @ \$750.00	= \$750.00
Pre-hearing conference(s): March 24, 2003 1 session	
Four (4) Hearing sessions @ \$750.00	= \$3,000.00
Hearing Date(s): October 22, 2003 2 sessions	
October 23, 2003 2 sessions	
Total Forum Fees	= \$4,200.00

1. The Panel has assessed \$4,200.00 of the forum fees to Respondent Morgan Stanley.

Fee Summary

1. Claimant is assessed:

Initial Filing Fee	= \$ 225.00
Total Fees	= \$ 225.00
Less payments	= \$ 975.00
Refund Due Claimant	= \$ 750.00

2. Respondent is assessed:

Member Fees	= \$ 3,550.00
Forum Fees	= \$ 4,200.00
Total Fees	= \$ 7,750.00
Less payments	= \$ 3,350.00
Balance Due NASD Dispute Resolution	= \$ 4,400.00

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

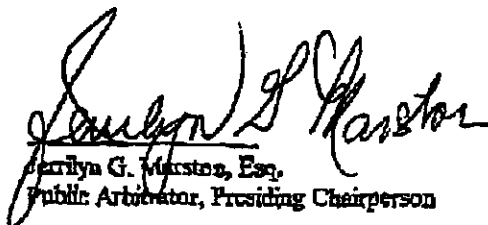
ARBITRATION PANEL

Jerrilyn G. Marston, Esq.
E. William Pastor, Esq.
Stephen T. Mayhew

- Public Arbitrator, Presiding Chairperson
- Public Arbitrator, Panelist
- Non-Public Arbitrator, Panelist

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Concurring Arbitrator's Signature(s)


Marilyn G. Munster, Esq.
Public Arbitrator, Presiding Chairperson

10-31-03
Signature Date

B. William Pastor, Esq.
Public Arbitrator, Panelist

Signature Date

Stephen T. Mayhew
Non-Public Arbitrator, Panelist

Signature Date

11/10/03
Date of Service (For NASD Dispute Resolution office use only)

FROM : >>> WILLIAM PASTOR <<<

10/31/2003 14:52 FAX 202 728 8082


NASD DISPUTE RESOLUTION

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Concurring Arbitrators' Signature(s)

Jerrilyn G. Marston, Esq.
 Public Arbitrator, Presiding Chairperson

Signature Date



E. William Pastor, Esq.
 Public Arbitrator, Panelist

10/31/03
Signature Date

Stephen T. Mayhew
 Non-Public Arbitrator, Panelist

Signature Date

11/10/03

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

11/07/2003 13:09 FAX 202 728 8082

NASD DISPUTE RESOLUTION

005/008

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Concurring Arbitrators' Signature(s)

Jerrilyn G. Marston, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

E. William Pastor, Esq.
Public Arbitrator, Panelist

Signature Date


Stephen T. Mayhew
Non-Public Arbitrator, Panelist

11/7/03
Signature Date

11/10/03
Date of Service (For NASD Dispute Resolution office use only)