

AWARD
NASD Dispute Resolution

In the Matter of the Arbitration Between

Name of Claimant

Guillermo Nieto

and

Case Number: 02-04638
Hearing Site: Houston, Texas

Names of Respondents

Morgan Stanley DW, Inc.
Alfonso Asencio

NATURE OF DISPUTE

Customer v. Member Firm and Associated Person

REPRESENTATION OF PARTIES

Guillermo Nieto ("**Claimant**") was represented by Randall A. Pullman, Esq., of Stumpf, Craddock, Massey & Pullman of San Antonio, Texas.

Morgan Stanley DW, Inc. ("**MSDW**") and Alfonso Asencio ("**Asencio**"), hereinafter referred to as Respondents, were represented by Rebecca Robinson, Esq., of Baker Botts of Houston, Texas.

CASE INFORMATION

The Statement of Claim was filed on or about August 7, 2002.

The Submission Agreement of Claimant Guillermo Nieto was signed on or about August 5, 2002.

The Joint Statement of Answer was filed by Respondents Morgan Stanley DW, Inc. and Alfonso Asencio on or about October 2, 2002.

The Submission Agreement of Respondent Morgan Stanley DW, Inc. was signed on or about October 1, 2002.

The Submission Agreement of Respondent Alfonso Asencio was signed on or about October 1, 2002.

CASE SUMMARY

Claimant asserted the following causes of action: churning, suitability, negligence and failure to supervise. The causes of action relate to the order execution of various securities including Avici Systems stock.

Unless specifically admitted in their Answer, Respondents, Morgan Stanley DW, Inc. and Alfonso Asencio, denied the allegations made in the Statement of Claim.

RELIEF REQUESTED

Claimant requested an award in the amount of:

Actual/Compensatory Damages	\$179,688
Punitive/Exemplary Damages	\$179,688
Interest	Unspecified
Attorney's Fees	Unspecified
Other Costs	Unspecified
Other Monetary Relief	Unspecified

Respondents requested that the claims asserted against them be denied in their entirety and that they be awarded their costs and attorneys' fees.

OTHER ISSUES CONSIDERED & 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. In either case, the parties have agreed to receive conformed copies of the award while the original(s) remain on file with NASD Dispute Resolution ("NASD").

AWARD

After considering the pleadings, the testimony, and the evidence presented at the hearing, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

- 1.) Respondents, Morgan Stanley DW, Inc. and Alfonso Asencio, are jointly and severally liable for and shall pay to Claimant, Guillermo Nieto, the sum of \$81,500 in compensatory damages;

- 2.) Respondents, Morgan Stanley DW, Inc. and Alfonso Asencio, are jointly and severally liable for and shall pay to Claimant, Guillermo Nieto, the sum of \$67,000 in punitive damages pursuant to Texas statute;
- 3.) Respondents, Morgan Stanley DW, Inc. and Alfonso Asencio, are jointly and severally liable for and shall pay to Claimant, Guillermo Nieto, the sum of \$12,125 in interest.
- 4.) Respondents, Morgan Stanley DW, Inc. and Alfonso Asencio, are jointly and severally liable for and shall pay to Claimant, Guillermo Nieto, the sum of \$73,000 in attorneys fees pursuant to Texas statute;
- 5.) Respondents, Morgan Stanley DW, Inc., Alfonso Asencio, are jointly and severally liable for and shall pay to Claimant, Guillermo Nieto, the sum of \$8,000 in costs;
- 6.) Respondents, Morgan Stanley DW, Inc., Alfonso Asencio, are jointly and severally liable for and shall pay to Claimant, Guillermo Nieto, the sum of \$13,200 in damages, for personal income taxes paid by Claimant as a result of early withdrawals from his 401(k) plan;
- 7.) That any relief not specifically enumerated is hereby denied with prejudice.

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 = \$300.00

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. In this matter, the member firm is Morgan Stanley DW, Inc..

Member surcharge = \$1700.00
Pre-hearing process fee = \$ 750.00
Hearing process fee = \$2750.00

Adjournment Fees

Adjournments requested during these proceedings:

Hearing Dates, 9/23-26, 2003 adjournment by Nieto	= \$ 562.50
Hearing Dates, 9/23-26, 2003 adjournment by Morgan Stanley DW, Inc.	= \$ 562.50

Forum Fees and Assessments

The Arbitration Panel assesses forum fees for each hearing session conducted. A hearing 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:

Two (2) Pre-hearing sessions with a single arbitrator x \$450.00	= \$900.00
Pre-hearing conferences: July 10, 2003	1 session
July 21, 2003	1 session
One (1) Pre-hearing session with Panel x \$1125.00	= \$1125.00
Pre-hearing conference: January 31, 2003	1 session
Six (6) Hearing sessions x \$1125.00	= \$6750.00
Hearing Dates: November 20, 2003	3 sessions
November 21, 2003	3 sessions
Total Forum Fees	= \$8775.00

The Arbitration Panel has assessed \$8775.00 of the forum fees jointly and severally to Morgan Stanley DW, Inc. Alfonso Asencio.

Fee Summary

Claimant, Guillermo Nieto, is liable for:

Initial Filing Fee	= \$ 300.00
Adjournment Fee	= \$ 562.50
Total Fees	= \$ 862.50
Less payments	= \$1425.00
Refund Due NASD Dispute Resolution	= \$ 562.50

Respondent, Morgan Stanley DW, Inc., is liable for:

Member Fees	= \$ 5200.00
<u>Adjournment Fee</u>	<u>= \$ 562.50</u>
Total Fees	= \$ 5762.50
<u>Less payments</u>	<u>= \$ 5200.00</u>
Balance Due NASD Dispute Resolution	= \$ 562.50

Respondents, Morgan Stanley DW, Inc. Alfonso Asencio, are jointly and severally liable for:

<u>Forum Type</u>	<u>= \$ 8775.00</u>
Total Fees	= \$ 8775.00
<u>Less payments</u>	<u>= \$ 0.00</u>
Balance Due NASD Dispute Resolution	= \$ 8775.00

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

ARBITRATION PANEL

William S. Hopkins – Public Arbitrator, Presiding Chair
Walton F. Huff - Public Arbitrator
Kathy R. Holler - Non-Public Arbitrator

Concurring Arbitrators:

/s/ William S. Hopkins
William S. Hopkins
Public Arbitrator, Presiding Chair

December 26, 2003
Signature Date

/s/ Walton L. Huff
Walton L. Huff
Public Arbitrator

December 23, 2003
Signature Date

/s/ Kathy R. Holler
Kathy R. Holler
Non-Public Arbitrator

December 24, 2003
Signature Date

December 29, 2003
Date of Service (For NASD office use only)

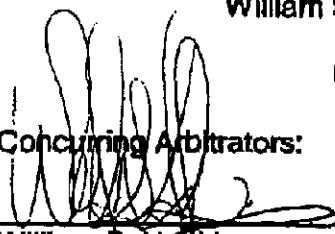
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William S. Hopkins – Public Arbitrator, Presiding Chair

Walton F. Huff - Public Arbitrator

Kathy R. Holler - Non-Public Arbitrator

Concurring Arbitrators:



William S. Hopkins
Public Arbitrator, Presiding Chair



Signature Date

Walton L. Huff
Public Arbitrator

Signature Date

Kathy R. Holler
Non-Public Arbitrator

Signature Date

Date of Service (For NASD office use only)

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William S. Hopkins - Public Arbitrator, Presiding Chair
Walton F. Huff - Public Arbitrator
Kathy R. Holler - Non-Public Arbitrator

Concurring Arbitrators:

William S. Hopkins
Public Arbitrator, Presiding Chair



Walton F. Huff
Public Arbitrator

Signature Date

12/23/03

Signature Date

Kathy R. Holler
Non-Public Arbitrator

Signature Date

Date of Service (For NASD office use only)

ARBITRATION PANEL

William S. Hopkins – Public Arbitrator, Presiding Chair
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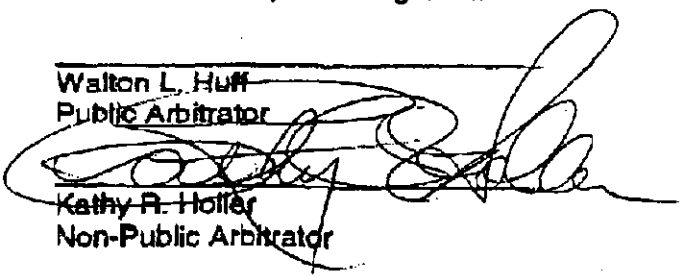
Concurring Arbitrators:

William S. Hopkins
Public Arbitrator, Presiding Chair

Signature Date

Walton L. Huff
Public Arbitrator

Signature Date



Kathy R. Holler
Non-Public Arbitrator

12/24/03
Signature Date

Date of Service (For NASD office use only)