

**Award**  
**NASD Dispute Resolution**

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In the Matter of the Arbitration Between:

M.P. Press, Inc. (Claimant) vs. Morgan Stanley DW Inc. and Sheldon Kramer (Respondents)

Case Number: 02-05434

Hearing Site: New York, New York

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**REPRESENTATION OF PARTIES**

Claimant M.P. Press, Inc., hereinafter referred to as "Claimant": Stephen H. Weiner, Esq., New York, NY.

Respondents, Morgan Stanley DW Inc. ("MSDW") and Sheldon Kramer ("Kramer"), hereinafter collectively referred to as "Respondents": Keith Guilfoyle, Esq., in-house counsel for MSDW, New York, NY.

**CASE INFORMATION**

Statement of Claim filed on or about: September 11, 2002

Claimant signed the Uniform Submission Agreement: September 9, 2002

Joint Statement of Answer filed by Respondents on or about: November 5, 2002

Respondent MSDW signed the Uniform Submission Agreement: November 5, 2002

Respondent Kramer signed the Uniform Submission Agreement: September 17, 2002

**CASE SUMMARY**

Claimant asserted the following causes of action: breach of fiduciary duty; failure to disclose material facts; unsuitability; and fraud.

Claimant's claim involved various mutual funds and Head N.V. stock.

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

**RELIEF REQUESTED**

Claimant requested:

Compensatory Damages

\$ 50,000.00

Interest

7% from August 11, 2000

Attorneys' Fees

Unspecified

Other Costs

Unspecified

Respondents requested that all claims asserted in the Statement of Claim be denied in their entirety and that the Arbitrator order such other forms of relief to respondents as it may deem appropriate.

### **OTHER ISSUES CONSIDERED AND DECIDED**

At the hearing, Respondents made a joint Motion to Dismiss which was denied by the Arbitrator.

### **AWARD**

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

1. Respondent MSDW is liable and shall pay to Claimant compensatory damages in the amount of \$5,000.00.
2. Claimant's claims against Respondent Kramer are dismissed in their entirety.
3. Any and all relief not specifically addressed herein 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	= \$ 175.00
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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, MSDW is a party.

Member surcharge	= \$ 875.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$ 1,000.00

**Forum Fees and Assessments**

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

One (1) Pre-hearing session with a single arbitrator @ \$ 450.00 = \$ 450.00  
Pre-hearing conference: February 11, 2003 1 session

Two (2) Hearing sessions @ \$450.00 = \$ 900.00  
Hearing Date: May 22, 2003 2 sessions

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Total Forum Fees = \$ 1,350.00

1. The Arbitrator has assessed \$ 675.00 of the forum fees against Claimant.
2. The Arbitrator has assessed \$ 675.00 of the forum fees against MSDW.

**Fee Summary**

1. Claimant is solely liable for:

Initial Filing Fee	= \$ 175.00
<u>Forum Fees</u>	= \$ 675.00
Total Fees	= \$ 850.00
<u>Less payments</u>	= \$ 775.00
Balance Due NASD Dispute Resolution	= \$ 75.00

2. Respondent MSDW is solely liable for:

Member Fees	= \$ 2,625.00
<u>Forum Fees</u>	= \$ 675.00
Total Fees	= \$ 3,300.00
<u>Less payments</u>	= \$ 2,625.00
Balance Due NASD Dispute Resolution	= \$ 675.00

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

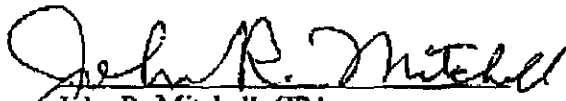
John R. Mitchell, CPA

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Public Arbitrator, Presiding Chairperson

**Concurring Arbitrators' Signature**

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 is which is my award.

  
John R. Mitchell, CPA  
Public Arbitrator, Presiding Chairperson

6-30-03  
Signature Date

June 30, 2003

Date of Service (For NASD Dispute Resolution use only)