

Award  
NASD Dispute Resolution

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In the Matter of the Arbitration Between:

Name of the Claimants

Jonathan Sporn  
Alexandra Sporn

Case Number: 02-05923

Name of the Respondent

Morgan Stanley DW, Inc.

Hearing Site: Washington, DC

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Nature of the Dispute: Customers vs. Member

**REPRESENTATION OF PARTIES**

Claimants, Jonathan Sporn ("J. Sporn") and Alexandra Sporn ("A. Sporn"), hereinafter collectively referred to as "Claimants", were represented by Mark M. Dumler, Esq., Parker, Dumler & Kiely, LLP, Baltimore, Maryland.

Respondent, Morgan Stanley DW, Inc. ("Respondent"), was represented by Debra A. Roth, Esq., Morgan Stanley DW, Inc., New York, NY.

**CASE INFORMATION**

Statement of Claim filed on October 2, 2002.

Claimant J. Sporn signed the Uniform Submission Agreement on August 10, 2002.

Claimant A. Sporn signed the Uniform Submission Agreement on August 10, 2002.

Statement of Answer filed by Respondent on December 6, 2002.

A representative of Respondent executed the Uniform Submission Agreement on December 6, 2002.

**CASE SUMMARY**

Claimants asserted the following causes of action, among others: negligence, failure to supervise, breach of fiduciary duty, misrepresentations, and suitability. The causes of action relate to various unspecified securities.

Unless specifically admitted in its Answer, Respondent denied the allegations made in the Statement of Claim and asserted the following defenses, among others: the Statement of Claim fails to state a claim upon which relief may be granted, assumption of risk, ratification, and failure to mitigate damages,

**RELIEF REQUESTED**

Claimants in their Statement of Claim requested:

Compensatory Damages	\$355,000.00
Attorneys' Fees	amount unspecified
Other Costs	amount unspecified

Respondent in its Statement of Answer requested that all claims be denied in their entirety and that it be awarded the costs of defending the claim.

#### OTHER ISSUES CONSIDERED AND DECIDED

At the hearing on the merits, Respondent requested that the Arbitration Panel (the "Panel") dismiss the case. Claimant objected to the motion.

After due deliberation, the Panel granted Respondent's Motion to Dismiss all claims on June 11, 2004.

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, 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. Claimants' claims 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 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	= \$ 300.00
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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 firms that employed the associated person(s) at the time of the events giving rise to the dispute. Accordingly, Morgan Stanley DW, Inc. is a party.

Member surcharge	= \$ 1,700.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$ 2,750.00

Total Member Fees = \$ 5,200.00

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

December 2-5, 2003 adjournment by Claimants = \$ 1,125.00

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 with Panel @ \$1,125.00 = \$ 1,125.00

Pre-hearing conference/s: April 30, 2003 1 session

Eight (8) Hearing sessions @ \$1,125.00 = \$ 9,000.00

Hearing Dates: June 1, 2004 2 sessions

June 2, 2004 2 sessions

June 3, 2004 2 sessions

June 4, 2004 2 sessions

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Total Forum Fees = \$10,125.00

The Panel has assessed \$10,125.00 of the forum fees to Claimants.

FEE SUMMARY

1. Claimants are assessed and shall pay the following fees:

Initial Filing Fee = \$ 300.00

Adjournment Fee = \$ 1,125.00

Forum Fees = \$ 10,125.00

Total Fees = \$11,550.00

Less payments = \$ 2,550.00

Balance Due NASD Dispute Resolution = \$ 9,000.00

2. Respondent is assessed and shall pay the following fees:

Member Fees = \$ 5,200.00

Total Fees = \$ 5,200.00

Less payments = \$ 6,200.00

Refund Due Respondent = \$ 1,000.00

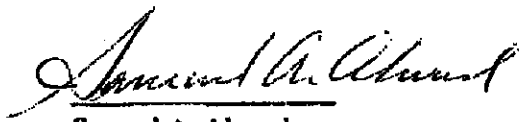
All balances are payable to NASD Dispute Resolution and are due upon receipt pursuant to Rule 10330(g) of the Code.

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**ARBITRATION PANEL**

Samuel A. Alward	-	Public Arbitrator, Presiding Chairperson
Stanley A. Cook	-	Public Arbitrator, Panelist
Robert Paulger Linn	-	Non-Public Arbitrator, Panelist

**Concurring Arbitrators' Signatures**

  
\_\_\_\_\_  
Samuel A. Alward  
Public Arbitrator, Presiding Chairperson

6/23/04  
\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Stanley A. Cook  
Public Arbitrator, Panelist

\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Robert Paulger Linn  
Non-Public Arbitrator, Panelist

\_\_\_\_\_  
Signature Date

7/1/04  
\_\_\_\_\_  
Date of Service (For NASD Dispute Resolution office use only)

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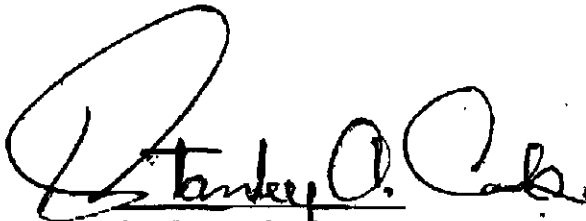
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Samuel A. Alward  
Public Arbitrator, Presiding Chairperson

\_\_\_\_\_  
Signature Date

  
Stanley A. Cook  
Public Arbitrator, Panelist

6-28-04  
Signature Date

\_\_\_\_\_  
Robert Paulger Linn  
Non-Public Arbitrator, Panelist

\_\_\_\_\_  
Signature Date

7/1/04  
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Public Arbitrator, Presiding Chairperson

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Signature Date

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Stanley A. Cook  
Public Arbitrator, Panelist

\_\_\_\_\_  
Signature Date

Robert Paulger Linn  
Robert Paulger Linn  
Non-Public Arbitrator, Panelist

6/27/04  
Signature Date

7/1/04  
Date of Service (For NASD Dispute Resolution office use only)