

Stipulated Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Paul T. Moxley, Claimant v. Morgan Stanley DW Inc. and Robert H. Rose, Respondents

Case Number: 02-06408

Hearing Site: Salt Lake City, Utah

Nature of the Dispute: Customer v. Member and Associated Person

REPRESENTATION OF PARTIES

For Claimant:

Randall R. Heiner, Esq.
Law Offices of Randall R.
Heiner
Salt Lake City, Utah

For Respondents:

Christopher B. Wells, Esq.
Lane Powell Spears Lubersky
LLP
Seattle, Washington

CASE INFORMATION

Statement of Claim filed: October 22, 2002

Claimant's Uniform Submission Agreement signed: October 3, 2002

Claimant's Response to Motion to Dismiss filed: January 9, 2004

Joint Statement of Answer and Motion to Dismiss filed by Respondents Morgan Stanley DW Inc.
and Robert H. Rose: February 4, 2003

Respondent Morgan Stanley DW Inc.'s Uniform Submission Agreement signed:
December 4, 2002 and June 6, 2002

Respondent Robert H. Rose's Uniform Submission Agreement signed: February 3, 2003

CASE SUMMARY

Claimant alleged violations of the Utah Uniform Securities Act §§ 61-1-22(1)(a), 61-1-22(4)(a), 61-1-22(2), negligence, negligent supervision, respondeat superior, breach of fiduciary duty and breach of contract, involving unspecified securities.

Respondents denied the allegations of wrongdoing as set forth in Claimant's Statement of Claim.

RELIEF REQUESTED

Claimant requested \$804,351.00 in compensatory damages, \$1,608,702.00 in treble damages, pre-judgment and post-judgment interest at the rate of 12% per annum, and costs, including attorney's fees.

Respondents requested dismissal of Claimant's Statement of Claim in its entirety, attorney's fees, forum fees, costs, and expungement of all reference to the above captioned arbitration from the registration record of Robert H. Rose maintained by the NASD Central Registration Depository.

OTHER ISSUES CONSIDERED AND DECIDED

On February 4, 2003, Respondents filed a Motion to Dismiss. On February 6, 2004, the Panel denied Respondents' Motion to Dismiss.

The parties agreed that the Stipulated Award in this matter may be executed in counterpart copies or that a handwritten, signed Award may be entered.

AWARD

After considering the pleadings and the Parties' request for this Stipulated Award, the Panel decided in full and final resolution of the issues submitted for determination as follows:

1. Claimant's claims are dismissed in their entirety.
2. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Robert H. Rose's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 99-09, Respondent Robert H. Rose 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 and expenses, including attorney's fees.
4. All other relief requested and not expressly granted is denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Dispute Resolution received or will collect the non-refundable filing fees for each claim as follows:

Initial Claim Filing Fee	= \$ 500.00
--------------------------	-------------

Member Fees

Member fees are assessed to each member firm that is either a party in the matter or an employer of a respondent associated person at the time of the events that gave rise to the dispute, claim, or controversy. Accordingly, the member firm Morgan Stanley DW Inc. is a party and the following fees are assessed:

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

Forum Fees and Assessments

The Panel assessed a forum fee for each pre-hearing conference conducted. A pre-hearing conference is any meeting between the parties and the Chair or Panel. The following fees are assessed:

(2) Pre-hearing conference sessions with the Panel @ \$1,200.00/session	= \$ 2,400.00
Pre-hearing conferences: November 10, 2003 1 session	
February 6, 2004 1 session	

Total Forum Fees	= \$ 2,400.00
-------------------------	----------------------

1. The Panel assessed \$ 1,200.00 of the forum fees to Claimant Paul T. Moxley.
2. The Panel assessed \$ 1,200.00 of the forum fees jointly and severally to Respondents Morgan Stanley DW Inc. and Robert H. Rose.

FEE SUMMARY

1. Claimant Paul T. Moxley is charged with the following fees and costs:

Initial Filing Fee	= \$ 500.00
<u>Forum Fees</u>	= \$ 1,200.00
Total Fees	= \$ 1,700.00
<u>Less payments</u>	= \$(1,700.00)
Balance Due NASD Dispute Resolution	= \$ 0.00

2. Respondent Morgan Stanley DW Inc. is charged with the following fees and costs:

Member Fees	= \$ 8,550.00
<u>Less payments</u>	= \$(8,550.00)
Balance Due NASD Dispute Resolution	= \$ 0.00

3. Respondents Morgan Stanley DW Inc. and Robert H. Rose are charged jointly and severally with the following fees and costs:

Forum Fees	= \$ 1,200.00
<u>Less payments</u>	= \$(0.00)
Balance Due NASD Dispute Resolution	= \$ 1,200.00

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

ARBITRATION PANEL

<i>Kevin D. Swenson, J.D.</i>	-	<i>Public Arbitrator, Presiding Chair</i>
<i>Keith E. Mercer</i>	-	<i>Public Arbitrator</i>
<i>George John Potter</i>	-	<i>Non-Public Arbitrator</i>

Concurring Arbitrators' Signatures


Kevin D. Swenson, J.D.
Chair, Public Arbitrator

9/13/04
Signature Date

Keith E. Mercer
Public Arbitrator

Signature Date

George John Potter
Non-Public Arbitrator

Signature Date

9/15/04
Date of Service


ARBITRATION PANEL

Kevin D. Swenson, J.D.	-	Public Arbitrator, Presiding Chair
Keith E. Mercer	-	Public Arbitrator
George John Potter	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

Kevin D. Swenson, J.D.
Chair, Public Arbitrator

Signature Date



Keith E. Mercer
Public Arbitrator

9-13-04
Signature Date

George John Potter
Non-Public Arbitrator

Signature Date

9/15/04
Date of Service

ARBITRATION PANEL

Kevin D. Swenson, J.D.	-	Public Arbitrator, Presiding Chair
Keith E. Mercer	-	Public Arbitrator
George John Potter	-	Non-Public Arbitrator

Consenting Arbitrators' Signatures

Kevin D. Swenson, J.D.
Chair, Public Arbitrator

Signature Date

Keith E. Mercer
Public Arbitrator

Signature Date



George John Potter
Non-Public Arbitrator

9/13/2004

Signature Date

9/15/04

Date of Service