

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Francis J. Palmeri (Claimant) v. Alfred F. Palladino, Joseph V. Battipaglia, Ralph H. Bradley, Lee Fensterstock, Henry D. Gottmann, Rosemary Johnson, Joanne T. Marren, John R. Pellegrino, Robert P. Rittereiser, Hal Pomeranz, Joseph A. Muro, Ryan Beck & Co., Inc., Gruntal & Co., LLC, and Morgan Stanley DW, Inc. (Respondents)

Case Number: 02-07028

Hearing Site: New York, New York

Nature of the Dispute: Customer v. Members and Associated Persons.

REPRESENTATION OF PARTIES

Claimant Francis J. Palmeri ("Palmeri") hereinafter referred to as "Claimant": Brian J. Neville, Esq., Law Offices of Brian J. Neville, P.C., New York, NY.

Respondents Morgan Stanley DW Inc. ("Morgan Stanley") and Joseph A. Muro ("Muro"): Howard Sendrovitz, Morgan Stanley DW, Inc., New York, NY.

Respondents Robert P. Rittereiser ("Rittereiser"), Rosemary Johnson ("Johnson"), Joseph Battipaglia ("Battipaglia"), Ralph H. Bradley ("Bradley"), Henry D. Gottmann ("Gottmann"), Joanne T. Marren ("Marren"), John R. Pellegrino ("Pellegrino"), and Hal Pomeranz ("Pomeranz"): James W. Perkins, Esq., Greenberg Traurig, LLP, New York, NY.

Respondent Ryan Beck & Co., Inc. ("Ryan Beck"): Joel E. Davidson, Esq., Davidson & Grannum, formerly Davidson, Manchel & Brennan, LLP, Northvale, NJ.

Respondents Gruntal & Co., LLC ("Gruntal"), Alfred F. Palladino ("Palladino") and Lee Fensterstock ("Fensterstock") did not make appearances in this matter.

Morgan Stanley, Muro, Rittereiser, Johnson, Battipaglia, Bradley, Gottmann, Marren, Pellegrino, Pomeranz, Ryan Beck, Gruntal, Palladino, and Fensterstock are hereinafter collectively referred to as "Respondents".

CASE INFORMATION

Statement of Claim filed on or about: November 20, 2002.

Claimant signed the Uniform Submission Agreement: November 14, 2002.

Joint Statement of Answer filed by Respondents Morgan Stanley and Muro on or about:

February 18, 2003.

Respondent Morgan Stanley signed the Uniform Submission Agreement: May 26, 2004.

Respondent Muro signed the Uniform Submission Agreement: May 24, 2004.

Joint Answer and Motion to Dismiss filed by Respondents Rittreiser, Johnson, Battipaglia, Bradley, Gottmann, Marren, Pellegrino, and Pomeranz on or about: March 10, 2003.

Respondent Rittreiser did not sign the Uniform Submission Agreement.

Respondent Johnson did not sign the Uniform Submission Agreement.

Respondent Battipaglia did not sign the Uniform Submission Agreement.

Respondent Bradley did not sign the Uniform Submission Agreement.

Respondent Gottmann did not sign the Uniform Submission Agreement.

Respondent Marren did not sign the Uniform Submission Agreement.

Respondent Pellegrino did not sign the Uniform Submission Agreement.

Respondent Pomeranz did not sign the Uniform Submission Agreement.

Respondent Ryan Beck did not file a Statement of Answer or sign the Uniform Submission Agreement.

Respondent Palladino did not file a Statement of Answer or sign the Uniform Submission Agreement.

Respondent Fensterstock did not file a Statement of Answer or sign the Uniform Submission Agreement.

CASE SUMMARY

Claimant asserted the following causes of action: unsuitability; fraud and misrepresentation; violation of federal securities laws; violation of industry rules; failure to supervise; and respondeat superior. Claimant's claim involved unspecified securities.

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

Unless specifically admitted in their Answer and Motion to Dismiss, Respondents Rittreiser, Johnson, Battipaglia, Bradley, Gottmann, Marren, Pellegrino, and Pomeranz denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

Claimant requested compensatory damages in the amount of \$233,000.00; including \$85,000.00 from Morgan Stanley; restoring all commissions, margin interest and fees;

interest from the date Claimant opened the account to the date of the Award at the statutory rate of 9%; reimbursement of all filing and hearing fees; punitive damages; and such other and further relief as the Panel deems just and equitable.

Respondents Morgan Stanley and Muro requested that the Panel dismiss the Statement of Claim in its entirety; award them the costs and expenses; issue an Order expunging this matter from the CRD of Respondent Muro; and award Respondents such other and further relief as is just and proper.

Respondents Rittreiser, Johnson, Battipaglia, Bradley, Gottmann, Marren, Pellegrino, and Pomeranz requested that the Panel dismiss this claim in its entirety; expunge this claim from the CRD of the Executive Officers; and grant such other and further relief, including attorneys' fees and costs incurred in connection with this proceeding, as it deems just and proper.

OTHER ISSUES CONSIDERED AND DECIDED

Upon review of the file and the representations made on behalf of the Claimants, the undersigned arbitrators (the "Panel") determined that Respondents Pellegrino and Fensterstock have been properly served with the Statement of Claim and received due notice of the hearing and that arbitration of the matter would proceed without said Respondents present, in accordance with the NASD Code of Arbitration Procedure (the "Code").

Respondents Rittreiser, Johnson, Battipaglia, Bradley, Gottmann, Marren, Pellegrino, and Pomeranz and Ryan Beck did not file with NASD Dispute Resolution properly executed Uniform Submission Agreements but are required to submit to arbitration pursuant to the Code and, having answered the claim, are bound by the determination of the Panel on all issues submitted.

Respondents Palladino and Fensterstock did not file with NASD Dispute Resolution properly executed Uniform Submission Agreements but are required to submit to arbitration pursuant to the Code and are bound by the determination of the Panel on all issues submitted.

On or about October 29, 2002, Respondent Gruntal filed for bankruptcy under Chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the Southern District of New York. Therefore, all claims against Gruntal are stayed.

By letter dated March 10, 2003, NASD Dispute Resolution was notified that Claimant dismissed Respondents Pellegrino and Fensterstock from this matter.

On or about August 1, 2003, NASD Dispute Resolution was notified that Claimant voluntarily stayed this arbitration against Respondent Ryan Beck without prejudice. On

or about February 19, 2004, Claimant dismissed all claims against Ryan Beck with prejudice.

On or about September 16, 2003, the Panel dismissed Respondents Palladino, Battipaglia, Bradley, Fensterstock, Gottmann, Johnson, Marren, Pellegrino, and Rittereiser.

On or about April 27, 2004, Claimant notified NASD Dispute Resolution of his settlement with Respondent Pomeranz.

At the hearing in this matter Respondents Morgan Stanley and Muro made a motion to dismiss. After due consideration, the Panel denied the motion.

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, and 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. Claimant's claims are denied in their entirety.
2. Respondent Morgan Stanley is liable for and shall pay to Claimant the sum of \$300.00, to reimburse Claimant for the filing fee previously paid to NASD Dispute Resolution.
3. Any and all relief not specifically addressed herein, including punitive damages, is denied.
4. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Joseph A. Muro's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notices to Members 99-09 and 99-54, Respondent Muro must obtain confirmation from a court of competent jurisdiction before CRD will execute the expungement directive.

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 firms that employed the associated persons at the time of the events giving rise to the dispute. Accordingly, Morgan Stanley DW, Inc. is a party.

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

Member fees are assessed to each member firm that is a party in these proceedings or to the member firms that employed the associated persons at the time of the events giving rise to the dispute. Accordingly, Ryan Beck & Co., Inc. is a party.

Member surcharge = \$1,500.00
Pre-hearing process fee = \$ 750.00

Forum Fees and Assessments

The Panel has assessed forum fees for each session conducted. A session is any meeting between the parties and the arbitrators, including a pre-hearing conference with the arbitrators, 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: July 24, 2003 1 session

Three (3) Hearing sessions @ \$1,125.00 = \$3,375.00

Hearing Dates: May 18, 2004 2 sessions
May 19, 2004 1 session

Total Forum Fees = \$4,500.00

1. The Panel has assessed \$4,500.00 of the forum fees against Respondent Morgan Stanley.

Fee Summary

1. Claimant is solely liable for:

Initial Filing Fee	= \$ 300.00
Total Fees	= \$ 300.00
Less payments	= \$1,425.00
Refund Due to Claimant	= \$1,125.00

2. Respondent Ryan Beck is solely liable for:

<u>Member Fees</u>	= \$2,250.00
<u>Total Fees</u>	= \$2,250.00
<u>Less payments</u>	= \$2,250.00
Balance Due Dispute Resolution	= \$ 0.00

3. Respondent Morgan Stanley is solely liable for:

<u>Member Fees</u>	= \$3,550.00
<u>Forum Fees</u>	= \$4,500.00
<u>Total Fees</u>	= \$8,050.00
<u>Less payments</u>	= \$3,550.00
Balance Due NASD Dispute Resolution	= \$4,500.00

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

ARBITRATION PANEL

James S. Hazard	-	Public Arbitrator, Presiding Chair
Bennett A. Hall	-	Public Arbitrator
Theodor Brown	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

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 in which is my award.


James S. Hazard
Public Arbitrator, Presiding Chairperson


Signature Date

Bennett A. Hall
Public Arbitrator

Signature Date

Theodor Brown
Non-Public Arbitrator

Signature Date

June 15, 2004
Date of Service (For NASD Dispute Resolution use only)

ARBITRATION PANEL

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Bennett A. Hall	-	Public Arbitrator
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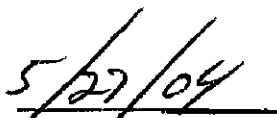
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Bennett A. Hall
Public Arbitrator



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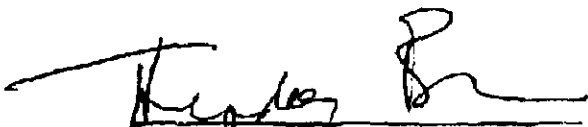
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Bennett A. Hall
Public Arbitrator

Signature Date



Theodor Brown
Non-Public Arbitrator

Signature Date

June 15, 2004

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