

**Award  
NASD Dispute Resolution**

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In the Matter of the Arbitration Between:

Name of the Claimant  
Marc Chimes

Case Number: 02-07041

Name of the Respondent  
Morgan Stanley DW, Inc.

Hearing Site: Washington, D.C.

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Nature of the Dispute: Customer v. Member.

**REPRESENTATION OF PARTIES**

Claimant, Marc Chimes, hereinafter referred to as "Claimant", was represented by Tas S.G. Coroneos, Esq. and Herbert Rubenstein, Esq., Coroneos & Rubenstein, P.C., Rockville, Maryland.

Respondent, Morgan Stanley DW, Inc., hereinafter referred to as "Respondent", was represented by Gary Jackson, Esq., Morgan Stanley DW, Inc., New York, New York.

**CASE INFORMATION**

Statement of Claim filed on November 21, 2002.

Claimant signed the Uniform Submission Agreement on November 20, 2002.

Statement of Answer filed by Respondent on February 11, 2003.

A representative of Respondent signed the Uniform Submission Agreement on February 11, 2003.

**CASE SUMMARY**

Claimant asserted the following causes of action, among others: suitability; failure to supervise; and, conflict of interest/secret undisclosed compensation. The causes of action relate to the purchase and sale of various securities.

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

### **RELIEF REQUESTED**

Claimant requested:

Compensatory Damages	\$ 240,000.00
Punitive Damages	amount unspecified
Attorneys' Fees	amount unspecified
Other Costs	amount unspecified

Respondents requested that Claimant's claims be dismissed in their entirety and that they be awarded the costs and expenses of this arbitration.

### **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. Claimant's 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, including punitive damages, 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 firm that employed the associated person at the time of the events giving rise to the dispute.

Accordingly, Respondent is a party.

Member surcharge	= \$ 1,700.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$ 2750.00

#### **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 sessions with Panel @ \$ 1,125.00 = \$ 1,125.00  
Pre-hearing conferences: October 2, 2003 1 session

Five (5) Hearing sessions @ \$ 1,125.00 = \$ 5,625.00  
Hearing Date(s): December 17, 2003 2 sessions  
December 18, 2003 3 sessions

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Total Forum Fees = \$ 6,750.00

1. The Panel has assessed \$ 3,375.00 of the forum fees to Claimant.
2. The Panel has assessed \$ 3,375.00 of the forum fees to Respondent.

#### Fee Summary

1. Claimant is assessed and shall pay:

Initial Filing Fee	= \$ 300.00
Forum Fees	= \$ 3,375.00
Total Fees	= \$ 3,675.00
Less payments	= \$ 1,425.00
Balance Due NASD Dispute Resolution	= \$ 2,250.00
2. Respondent is assessed and shall pay:

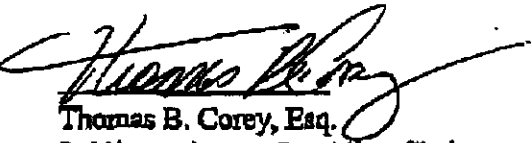
Member Fees	= \$ 5,200.00
Forum Fees	= \$ 3,375.00
Total Fees	= \$ 8,575.00
Less payments	= \$ 5,200.00
Balance Due NASD Dispute Resolution	= \$ 3,375.00

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

#### ARBITRATION PANEL

Thomas B. Corey, Esq.	-	Public Arbitrator, Presiding Chairperson
Leonard E. Benade	-	Public Arbitrator, Panelist
George R. Hannaway	-	Non-Public Arbitrator, Panelist

**Concurring Arbitrators' Signatures**

  
Thomas B. Corey, Esq.  
Public Arbitrator, Presiding Chairperson

12/24/03  
Signature Date

\_\_\_\_\_  
Leonard E. Benade  
Public Arbitrator, Panelist

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

\_\_\_\_\_  
George R. Hammaway  
Non-Public Arbitrator, Panelist

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

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

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Arbitration No. 02-07041  
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Concurring Arbitrators' Signatures

\_\_\_\_\_  
Thomas B. Corey, Esq.  
Public Arbitrator, Presiding Chairperson

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



Leonard E. Benade  
Public Arbitrator, Panelist

12/23/03

Signature Date

\_\_\_\_\_  
George R. Hannuway  
Non-Public Arbitrator, Panelist

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

December 29, 2003

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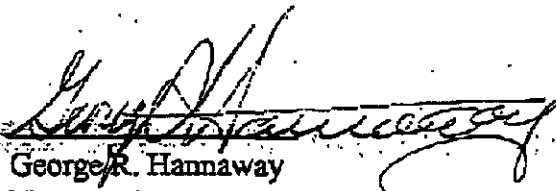
**Concurring Arbitrators' Signatures**

Thomas B. Corey, Esq.  
Public Arbitrator, Presiding Chairperson

Signature Date

Leonard E. Benade  
Public Arbitrator, Panelist

Signature Date

  
George R. Hammaway  
Non-Public Arbitrator, Panelist

12/26/03  
Signature Date

December 29, 2003

Date of Service (For NASD Dispute Resolution office use only)