

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

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In the Matter of the Arbitration Between:

William C. Meyer and Yvonne D. Meyer and William C. Meyer as Custodian for William Robert Meyer (Claimants) v. Morgan Stanley DW Inc. and Robert D. Spina (Respondents)

Case Number: 02-07404

Hearing Site: New York, New York

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Nature of Dispute: Customers v. Member and Associated Person

**REPRESENTATION OF PARTIES**

Claimants, William C. Meyer and Yvonne D. Meyer ("The Meyers") and William C. Meyer as Custodian for William Robert Meyer ("W. C. Meyer Custodian"), hereinafter collectively referred to as "Claimants": Bryce R. Levine, Esq., Jeffrey S. Schechter & Associates, P.C., Garden City, NY.

Respondents, Morgan Stanley DW Inc. ("Morgan Stanley") and Robert D. Spina ("Spina"), hereinafter collectively referred to as "Respondents": Gary E. Jackson, Esq., Morgan Stanley DW Inc., New York, NY.

**CASE INFORMATION**

Statement of Claim filed on or about: December 4, 2002.

Claimants signed the Uniform Submission Agreement: November 18, 2002.

Joint Statement of Answer filed by Respondents on or about: September 4, 2003.

Respondent Morgan Stanley signed the Uniform Submission Agreement: September 4, 2003.

Respondent Spina did not sign the Uniform Submission Agreement.

**CASE SUMMARY**

Claimants asserted the following causes of action: breach of contract, failure to supervise, negligence, deceptive practices, unsuitable recommendations, common law fraud, fraud under Section 10 of the Securities Exchange Act of 1934 and Rule 10b-5 promulgated under such Section, and respondeat superior. The causes of action relate to Morgan Stanley proprietary mutual funds and common stocks in the technology and telecommunications industry.

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

### **RELIEF REQUESTED**

Claimants requested compensatory damages in excess of \$315,000.00; attorneys' fees pursuant to New York General Business Law Section 349(h); punitive damages in excess of \$1,000,000.00; and costs and disbursements.

Respondents requested dismissal of the Statement of Claim in its entirety; costs and expenses; and such other relief as is just and proper.

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

Respondent Spina did not file with NASD Dispute Resolution a properly executed Uniform Submission Agreement but is required to submit to arbitration pursuant to the Code and, having answered the claim, is bound by the determination of the Panel on all issues submitted.

On or about May 28, 2004, NASD Dispute Resolution ("NASD DR") was notified that the parties settled this matter.

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

### **AWARD**

The parties entered into an agreement to present to the Panel a Stipulated Award. Now, in lieu of a hearing and upon motion of both parties for an entry of an award, the written stipulation thereto, the Panel grants the motion and enters this award granting the following relief:

1. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Spina'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 Spina must obtain confirmation from a court of competent jurisdiction before CRD will execute the expungement directive.
2. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Morgan Stanley'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 Morgan Stanley must obtain confirmation from a court of competent jurisdiction before CRD will execute the expungement directive.
3. Any and all relief not specifically addressed herein, including punitive damages 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 = \$ 500.00

#### **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. In this matter, the member firm Morgan Stanley DW Inc. is a party.

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 assesses forum fees for each hearing session conducted. A hearing 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. Forum fees associated with these proceedings are:

Two (2) Pre-hearing conference sessions with the Panel @ \$1,200.00/session = \$2,400.00

Pre-hearing conferences:	January 8, 2004	1 session
	April 13, 2004	1 session

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Total Forum Fees = \$2,400.00

1. The Panel has assessed \$1,200.00 of the forum fees jointly and severally against Claimants.
2. The Panel has assessed \$1,200.00 of the forum fees jointly and severally against Respondents.

### **Fee Summary**

1. Claimants are jointly and severally liable for:

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

2. Respondent Morgan Stanley is solely liable for:

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

3. Respondents are jointly and severally liable for:

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


All balances are due and payable to NASD Dispute Resolution

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Arbitration No. 02-07404  
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**Parties' Signatures**

  
William C. Meyer  
Claimant

6/24/04  
Signature Date

  
Yvonne D. Meyer  
Claimant

6-24-04  
Signature Date

  
William C. Meyer  
Custodian for William Robert Meyer  
Claimant

6-24-04  
Signature Date

Morgan Stanley DW Inc.  
Respondent

Signature Date

Robert D. Spina  
Respondent

Signature Date

NASD Dispute Resolution  
Arbitration No. 02-07404  
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Claimant

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Signature Date

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Yvonne D. Meyer  
Claimant

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

\_\_\_\_\_  
William C. Meyer  
Custodian for William Robert Meyer  
Claimant

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

MORGAN STANLEY DW INC.  
Morgan Stanley DW Inc.  
Respondent *BY: [Signature]*  
*GRACE JACOBSON*  
*VIC ASSISTANT*

6/24/04  
Signature Date

[Signature]  
Robert D. Spina  
Respondent

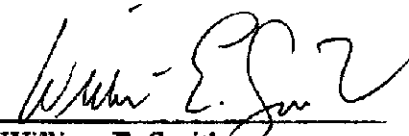
6/24/04  
Signature Date

NASD Dispute Resolution  
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**ARBITRATION PANEL**

William E. Smith  
Diane Ciccone, Esq.  
Robert E. Holley

- Public Arbitrator, Presiding Chair  
- Public Arbitrator  
- Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

William E. Smith  
Public Arbitrator, Presiding Chair

07-02-04  
Signature Date

Diane Ciccone, Esq.  
Public Arbitrator

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

Robert E. Holley  
Non-Public Arbitrator

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

July 20, 2004  
Date of Service (For NASD office use only)

NASD Dispute Resolution  
Arbitration No. 02-07404  
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ARBITRATION PANEL

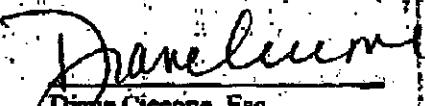
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- Public Arbitrator, Presiding Chair  
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Public Arbitrator, Presiding Chair

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Diane Ciccone, Esq.  
Public Arbitrator

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Signature Date

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Robert E. Holley  
Non-Public Arbitrator

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Diane Ciccone, Esq.	-	Public Arbitrator
Robert E. Holley	-	Non-Public Arbitrator

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William E. Smith  
Public Arbitrator, Presiding Chair

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Signature Date

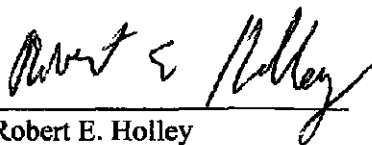
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Diane Ciccone, Esq.  
Public Arbitrator

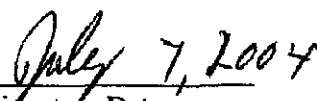
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Robert E. Holley  
Non-Public Arbitrator

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