

Stipulated Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Dr. Jean H. Savage, Claimant v. Morgan Stanley DW Inc., Martin W. Pernoll, James F. Burke, Nick T. Garriss, Jr., and Orlo B. Elfes, III, Respondents

Martin W. Pernoll, Cross-Claimant v. Morgan Stanley DW Inc., Cross-Respondent

Case Number: 02-07676

Hearing Site: Los Angeles, California

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

REPRESENTATION OF PARTIES

For Claimant:

Sylvia Scott, Esq.
Freeman Freeman & Smiley LLP
Los Angeles, California

For Respondent / Cross-Respondent Morgan Stanley DW Inc. ("Respondent Morgan Stanley DW Inc."), James F. Burke, Nick T. Garriss, Jr., and Orlo B. Elfes, III:

John W. Cotton, Esq.
Cotton & Gundzik LLP
Los Angeles, California

For Respondent / Cross-Claimant Martin W. Pernoll ("Respondent Martin W. Pernoll"):

Sheldon M. Jaffe, Esq.
Law Offices of Sheldon M. Jaffe
Los Angeles, California

CASE INFORMATION

Statement of Claim filed: December 17, 2002

Claimant's Uniform Submission Agreement signed: December 16, 2002

Statement of Answer filed by Respondents Morgan Stanley DW Inc., James F. Burke, Nick T. Garriss, Jr., and Orlo B. Elfes, III: March 5, 2003

Respondent Morgan Stanley DW Inc.'s Uniform Submission Agreement signed: March 3, 2003

Respondent James F. Burke's Uniform Submission Agreement signed: February 24, 2003

Respondent Nick T. Garris, Jr.'s Uniform Submission Agreement signed: February 11, 2003

Respondent Orlo B. Elfes, III's Uniform Submission Agreement signed: January 29, 2003

Statement of Answer filed by Respondent Martin W. Pernoll: March 11, 2003

Cross-Claim filed by Respondent Martin W. Pernoll against Respondent Morgan Stanley DW Inc.: March 11, 2003

Respondent Martin W. Pernoll's Uniform Submission Agreement signed: March 10, 2003

CASE SUMMARY

Claimant alleged failure to supervise, unsuitable recommendations, fraudulent misrepresentation, and breach of fiduciary duty, involving unspecified securities.

Respondents Morgan Stanley DW Inc., James F. Burke, Nick T. Garris, Jr., and Orlo B. Elfes, III denied the allegations of wrongdoing set forth in Claimant's Statement of Claim and set forth various affirmative defenses.

Respondent Martin W. Pernoll denied the allegations of wrongdoing set forth in Claimant's Statement of Claim and set forth various affirmative defenses.

In his Cross-Claim, Martin W. Pernoll alleged that Respondent Morgan Stanley DW Inc. is liable for indemnification.

RELIEF REQUESTED

Claimant requested \$1,500,000.00 in compensatory damages, unspecified punitive damages, pre-judgment interest at 10% per annum, a declaration that all purchases and sales made in Claimant's account after September 1999 are rescinded and a refund of consideration paid for those investments, and costs, including attorney's fees and expert witness fees.

In their Statement of Answer, Respondents Morgan Stanley DW Inc., James F. Burke, Nick T. Garriss, Jr., and Orlo B. Elfes, III requested dismissal of Claimant's Statement of Claim in its entirety.

In his Statement of Answer, Martin W. Pernoll requested dismissal of Claimant's Statement of Claim as to himself and costs.

In his Cross-Claim, Morgan Stanley DW Inc. requested indemnification for expenses or losses incurred in this arbitration and any liability or judgment incurred as a result of this arbitration.

OTHER ISSUES CONSIDERED AND DECIDED

On July 8, 2003, Respondent Martin W. Pernoll dismissed his Cross-Claim against Respondent Morgan Stanley DW Inc.

On August 29, 2006, Claimant notified NASD Dispute Resolution that the parties had entered into a confidential settlement agreement and that the parties would request a Stipulated Award to be signed by the Arbitration Panel. On September 13, 2006, the parties notified NASD Dispute Resolution of their stipulation that the Arbitration Panel recommend expungement of all reference to this matter from Respondents Martin W. Pernoll, James F. Burke, Nick T. Garriss, Jr., and Orlo B. Elfes, III's registration records maintained by the NASD Central Registration Depository ("CRD")

The parties agreed that the Stipulated Award in this matter may be executed in counterpart copies or that a handwritten, signed Stipulated 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 and Respondents have entered into a confidential settlement agreement.
2. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Martin W. Pernoll's registration records maintained by the CRD, with the understanding that pursuant to NASD Notice to Members 99-09 and 99-54, Respondent Martin W. Pernoll must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.
3. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent James F. Burke's registration records maintained by the CRD, with the understanding that pursuant to NASD Notice to Members 99-09 and 99-54, Respondent James F. Burke must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.
4. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Nick T. Garriss, Jr.'s registration records maintained by the CRD, with the understanding that pursuant to NASD Notice to Members 99-09 and 99-54, Respondent Nick T. Garriss, Jr. must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.
5. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Orlo B. Elfes, III's registration records maintained by the CRD, with the understanding that pursuant to NASD Notice to Members 99-09 and 99-54, Respondent Orlo B. Elfes, III must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.
6. The parties shall bear their respective costs, including attorney's fees.
7. 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
Respondent Martin W. Pernoll's Cross-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 which 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
Hearing Process Fee	= \$ 5,000.00
Total Member Fees	= \$ 8,550.00

Forum Fees and Assessments

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

1 Pre-hearing conference session with the Panel @ \$1,200.00/session	= \$ 1,200.00
Pre-hearing conference: September 6, 2005 1 session	

Total Forum Fees	= \$ 1,200.00
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1. The Panel assessed \$600.00 of the forum fees to Claimant.
2. The Panel assessed \$600.00 of the forum fees jointly and severally to Respondents.

Fee Summary

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

Initial Claim Filing Fee	= \$ 500.00
Forum Fees	= \$ 600.00
Total Fees	= \$ 1,100.00
Less payments	= \$(1,700.00)
Refund Due Claimant	= \$(600.00)

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

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

3. Respondent Martin W. Pernoll is charged with the following fees and costs:

Cross-Claim filing fee	= \$ 500.00
Less payments	= \$(500.00)
Balance Due NASD Dispute Resolution	= \$ 0.00

4. Respondents are charged jointly and severally with the following fees and costs:

Forum Fees	= \$ 600.00
Less payments made by Respondent Martin W. Pernoll	= \$(1,200.00)
Refund Due Respondent Martin W. Pernoll	= \$(600.00)

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

Sandra L. Malek	-	Public Arbitrator, Presiding Chair
Joseph L. Hagan	-	Public Arbitrator
Dean Schneider	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

Sandra L. Malek
Chair, Public Arbitrator

Signature Date

Joseph L. Hagan
Public Arbitrator

Signature Date

Dean Schneider
Non-Public Arbitrator

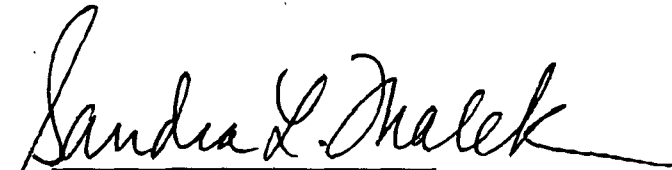
Signature Date

Date of Service

ARBITRATION PANEL

Sandra L. Malek	-	Public Arbitrator, Presiding Chair
Joseph L. Hagan	-	Public Arbitrator
Dean Schneider	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures



Sandra L. Malek
Chair, Public Arbitrator

11/10/2006
Signature Date

Joseph L. Hagan
Public Arbitrator

Signature Date

Dean Schneider
Non-Public Arbitrator

Signature Date

11/13/06
Date of Service

ARBITRATION PANEL

Sandra L. Malek	-	Public Arbitrator, Presiding Chair
Joseph L. Hagan	-	Public Arbitrator
Dean Schneider	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

Sandra L. Malek
Chair, Public Arbitrator

Signature Date

Joseph L. Hagan
Public Arbitrator

11/4/06
Signature Date

Dean Schneider
Non-Public Arbitrator

Signature Date

11/13/06
Date of Service

ARBITRATION PANEL

Sandra L. Malek	-	Public Arbitrator, Presiding Chair
Joseph L. Hagan	-	Public Arbitrator
Dean Schneider	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

Sandra L. Malek
Chair, Public Arbitrator

Signature Date

Joseph L. Hagan
Public Arbitrator

Signature Date



Dean Schneider
Non-Public Arbitrator

11-6-06

Signature Date

11/13/06

Date of Service