

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

David Lane, Claimant v. Morgan Stanley DW Inc. and Leslie P. Jenkins, Respondents

Case Number: 03-00171

Hearing Site: Los Angeles, California

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

REPRESENTATION OF PARTIES

For Claimant:

William W. Bloch, Esq.
Excelus Law Group, Inc.
Beverly Hills, California

For Respondents:

Kevin K. Fitzgerald, Esq.
Catherine L. Dellecker, Esq.
Jones, Bell, Abbott, Fleming & Fitzgerald L.L.P.
Los Angeles, California

CASE INFORMATION

Statement of Claim filed: January 8, 2003

Claimant's Uniform Submission Agreement signed: December 27, 2002

Joint Statement of Answer filed by Respondents: March 21, 2003

Respondent Morgan Stanley DW Inc.'s Uniform Submission Agreement signed: July 24, 2003

Respondent Leslie P. Jenkins' Uniform Submission Agreement signed: July 28, 2003

CASE SUMMARY

Claimant alleged fraud, negligence, negligent misrepresentation, breach of fiduciary duty, and breach of contract. Claimant's allegations involved transactions in Global Crossing, Global Star and other unspecified securities.

Respondents denied the allegations of wrongdoing set forth in the Claimant's Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

Claimant requested compensatory damages in the amount of \$750,000.00 and punitive damages in the amount of \$249,000.00.

Respondents requested dismissal of the Claimant's Statement of Claim in its entirety, expungement of all reference to the above captioned arbitration from Respondent Leslie P. Jenkins' registration records maintained by the NASD Central Registration Depository ("CRD"), and costs.

OTHER ISSUES CONSIDERED AND DECIDED

On May 20, 2003, NASD Dispute Resolution received the Waiver Agreement from Claimant and Claimant's counsel expressly waiving any and all rights and benefits under California Civil Code Section 1542 and the California Ethical Standards for Neutral Arbitrators.

On June 23, 2003, Respondent Leslie P. Jenkins signed a Waiver Agreement expressly waiving any and all rights and benefits under California Civil Code Section 1542 and the California Ethical Standards for Neutral Arbitrators.

Pursuant to the Code of Arbitration Procedure IM-10100, the waiver of the Claimant shall constitute and operate as a waiver for all member firms and associated persons (including terminated or otherwise inactive member firms or associated persons) against whom the Claim has been filed.

At the hearing, Respondents moved the Panel to dismiss the claim. After due deliberation, the Panel denied the motion.

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

After considering the pleadings, testimony, and evidence presented at the hearing, the Panel 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 attorney's fees.
3. All other relief requested and not expressly granted is denied.

FEES

Pursuant to the Code of Arbitration Procedure ("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	= \$ 375.00
--------------------------	-------------

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	= \$ 2,250.00
Pre-Hearing Process Fee	= \$ 750.00
<u>Hearing Process Fee</u>	<u>= \$ 4,000.00</u>
Total Member Fees	= \$ 7,000.00

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:

One (1) Pre-hearing conference session with a single arbitrator @ \$450.00/session	= \$ 450.00
Pre-hearing conference: April 19, 2004	1 session

Two (2) Pre-hearing conference sessions with the Panel @ \$1,200.00/session = \$ 2,400.00
Pre-hearing conferences: September 29, 2003 1 session
May 7, 2004 1 session

Eight (8) Hearing sessions @ \$1,200.00/session = \$ 9,600.00
Hearings: May 11, 2004 2 sessions
May 12, 2004 2 sessions
May 13, 2004 2 sessions
May 14, 2004 2 sessions

Total Forum Fees = \$12,450.00

1. The Panel assessed \$6,225.00 of the forum fees to David Lane, Claimant.
2. The Panel assessed \$6,225.00 of the forum fees jointly and severally to Morgan Stanley DW Inc. and Leslie P. Jenkins, Respondents.

Fee Summary

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

Initial Filing Fee	= \$ 375.00
Forum Fees	= \$ 6,225.00
Total Fees	= \$ 6,600.00
Less payments	= \$(1,575.00)
Balance Due NASD Dispute Resolution	= \$ 5,025.00
2. Respondent Morgan Stanley DW Inc. is charged with the following fees and costs:

Member Fees	= \$ 7,000.00
Less payments	= \$(7,000.00)
Balance Due NASD Dispute Resolution	= \$ 0.00
3. Respondents Morgan Stanley DW Inc. and Leslie P. Jenkins are charged jointly and severally with the following fees and costs:

Forum Fees	= \$ 6,225.00
Balance Due NASD Dispute Resolution	= \$ 6,225.00

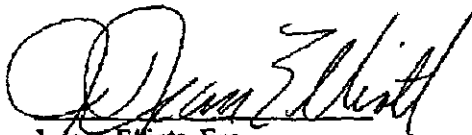
All balances are payable to NASD Dispute Resolution and are due upon the receipt of the Award pursuant to Rule 10330(g) of the Code.

ARBITRATION PANEL

J. Jean Elliott, Esq.
Cathleen M. Cobb
Luther Delano Prater

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

Concurring Arbitrators' Signatures


J. Jean Elliott, Esq.
Chair, Public Arbitrator

May 19, 2004
Signature Date

Cathleen M. Cobb
Public Arbitrator

Signature Date

Luther Delano Prater
Non-Public Arbitrator

Signature Date

5/19/04
Date of Service

ARBITRATION PANEL

J. Jean Elliott, Esq.	-	Public Arbitrator, Presiding Chair
Cathleen M. Cobb	-	Public Arbitrator
Luther Delano Prater	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

J. Jean Elliott, Esq.
Chair, Public Arbitrator

Signature Date

Cathleen M. Cobb
Cathleen M. Cobb
Public Arbitrator

5/19/04
Signature Date

Luther Delano Prater
Non-Public Arbitrator

Signature Date

5/19/04
Date of Service

ARBITRATION PANEL

J. Jean Elliott, Esq.	-	Public Arbitrator, Presiding Chair
Cathleen M. Cobb	-	Public Arbitrator
Luther Delano Prater	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

J. Jean Elliott, Esq.
Chair, Public Arbitrator

Signature Date

Cathleen M. Cobb
Public Arbitrator

Signature Date

Luther Delano Prater
Luther Delano Prater
Non-Public Arbitrator

5/19/04
Signature Date

5/19/04
Date of Service