

Stipulated Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:
Morgan Stanley DW Inc., Claimant v. John S. Gunnison, Respondent

Case Number: 03-00174

Hearing Site: Los Angeles, California

Nature of the Dispute: Member v. Associated Person

REPRESENTATION OF PARTIES

For Claimant:

Patrick J. Folan, Esq.
St. John, Wallace, Brennan & Folan LLP
Torrance, California

For Respondent:

James O. Boylan, III, Esq.
Law Offices of James O. Boylan, III, Esq.
Del Mar, California

CASE INFORMATION

Statement of Claim filed: January 8, 2003

Claimant's Uniform Submission Agreement signed: undated

Statement of Answer filed by Respondent: March 15, 2003

Respondent's Uniform Submission Agreement signed: March 17, 2003

CASE SUMMARY

Claimant alleged breach of a promissory note.

Respondent denied the allegations of wrongdoing set forth in the Claimant's Statement of Claim.

RELIEF REQUESTED

Claimant requested \$165,000.00 in compensatory damages, \$2,531.00 in interest during the term of the promissory note, interest at the contract rate of 5% per annum (\$22.60 per day) on the balance due from July 25, 2001 to the date of payment, and costs, including attorney's fees.

Respondent requested dismissal of the Claimant's Statement of Claim in its entirety.

OTHER ISSUES CONSIDERED AND DECIDED

On February 20, 2003, Claimant's counsel signed a Waiver Agreement on its behalf 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.

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 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. It is stipulated by and between the parties that Respondent is liable to and shall pay Claimant the amount of \$189,114.20 in damages.
2. Respondent further stipulates and agrees to waive all rights of appeal and review that he may have under the Code of Arbitration Procedure and applicable state and federal law, and that he shall not contest the entry of judgment against him by any court of competent jurisdiction.

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	= \$ 1,000.00
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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	= \$ 1,700.00
Pre-Hearing Process Fee	= \$ 750.00
<u>Hearing Process Fee</u>	<u>= \$ 2,750.00</u>
Total Member Fees	= \$ 5,200.00

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 Panel. The following fees are assessed:

1 Pre-hearing conference session with the Panel @ \$1,125.00/session	= \$ 1,125.00
Pre-hearing conference: January 20, 2004 1 session	
Total Forum Fees	= \$ 1,125.00

1. The Panel assessed \$ 562.50 of the forum fees to Claimant.
2. The Panel assessed \$ 562.50 of the forum fees to Respondent.

Fee Summary

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

Initial Filing Fee	= \$ 1,000.00
Member Fees	= \$ 5,200.00
<u>Forum Fees</u>	<u>= \$ 562.50</u>
Total Fees	= \$ 6,762.50
<u>Less payments</u>	<u>= \$(7,325.00)</u>
Refund Due Claimant	= \$(562.50)
2. Respondent is charged with the following fees and costs:

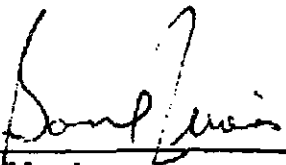
Forum Fees	= \$ 562.50
<u>Less payments</u>	<u>= \$(0.00)</u>
Balance Due NASD Dispute Resolution	= \$ 562.50

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

Basil Lewis	-	Non-Public Arbitrator, Presiding Chair
John H. Knight, Jr.	-	Non-Public Arbitrator
Robert Elman	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures



Basil Lewis
Chair, Non-Public Arbitrator

10/5/04

Signature Date

John H. Knight, Jr.
Non-Public Arbitrator

Signature Date

Robert Elman
Non-Public Arbitrator

Signature Date

10/6/04

Date of Service

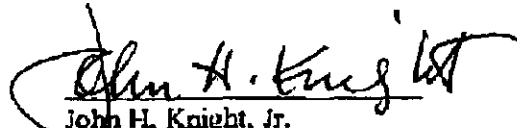
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Robert Elman	-	Non-Public Arbitrator

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Signature Date



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Non-Public Arbitrator

10/5/04

Signature Date

Robert Elman
Non-Public Arbitrator

Signature Date

10/6/04

Date of Service

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Signature Date

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Non-Public Arbitrator

Signature Date


Robert Elman
Non-Public Arbitrator

10/6/04
Signature Date

10/6/04
Date of Service

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8 IN ARBITRATION BEFORE THE
9 NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.
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11 Morgan Stanley DW Inc.

12 Claimant,

13 v.

14 John S. Gunnison, an individual,

15 Respondent.
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NASD Arbitration No. 03-00174

STIPULATED AWARD

19 It is hereby stipulated by and between the parties, John S. Gunnison ("Gunnison") and
20 Morgan Stanley DW Inc. ("Morgan Stanley") formerly known as Dean Witter Reynolds Inc., after
21 consultation with counsel, that the arbitration panel appointed in this matter shall enter an award in
22 favor of Morgan Stanley and against Gunnison in the amount of One Hundred Eighty-Nine Thousand
23 and One Hundred Fourteen Dollars and 20 cents (\$189,114.20).

24 Gunnison further stipulates and agrees to waive all rights of appeal and review that he may
25 have under the Code of Arbitration Procedure and applicable state and federal law, and that he shall
26 not contest the entry of judgment against him by any court of competent jurisdiction. The arbitration
27 panel hereby accepts the parties' stipulated award and hereby enters this award in favor of Morgan
28 Stanley and against Gunnison in the amount of One Hundred Eighty-Nine Thousand and One

1 Hundred Fourteen Dollars and 20 cents (\$189,114.20).

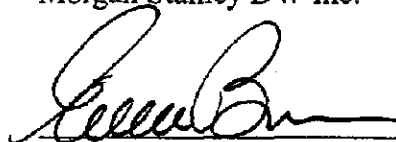
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3 Dated: 8/3, 2004


John S. Gunnison

4
5 Morgan Stanley DW Inc.

6
7 Dated: 8/26, 2004

8 By:



9 Its:

Executive Director

10 **IT IS SO ORDERED**

11
12 Dated: _____, 2004

13 _____
Basil Lewis
Industry Arbitrator/Chair

14
15 Dated: _____, 2004

16 _____
John H. Knight, Jr.
Industry Arbitrator

17
18 Dated: _____, 2004

19 _____
Robert Elman
Industry Arbitrator

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1 Hundred Fourteen Dollars and 20 cents (\$189,114.20).

2
3 Dated: 8/2, 2004

John S. Gunnison
John S. Gunnison

4
5
6 Morgan Stanley DW Inc.

7 Dated: 8/26, 2004

8 By: Allen Brun

9 Its: Executive Director

10 IT IS SO ORDERED

11
12 Dated: 10/5/04, 2004

Basil Lewis
Basil Lewis
Industry Arbitrator/Chair

13
14
15 Dated: _____, 2004

John H. Knight, Jr.
John H. Knight, Jr.
Industry Arbitrator

16
17
18 Dated: _____, 2004

Robert Elman
Robert Elman
Industry Arbitrator

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26 ..MSDWCollGunnisonExA-Stipulated Award of Judgment.wpd

1 Hundred Fourteen Dollars and 20 cents (\$189,114.20).

2
3 Dated: 8/3, 2004

John S. Gunnison
John S. Gunnison

4
5 Morgan Stanley DW Inc.

6
7 Dated: 8/26, 2004

8 By: [Signature]

9 Its: Executive Director

10 IT IS SO ORDERED

11
12 Dated: _____, 2004

13 Basil Lewis
Industry Arbitrator/Chair

14
15 Dated: 10/5/, 2004

16 John H. Knight, Jr.
John H. Knight, Jr.
Industry Arbitrator

17
18 Dated: _____, 2004

19 Robert Elman
Industry Arbitrator

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26 ...MSD\\NCG\\Gunnison\\JSA-Stipulated Award of Judgment.wpd

1 Hundred Fourteen Dollars and 20 cents (\$189,114.20).

2
3 Dated: 8/5, 2004

John S. Gunnison
John S. Gunnison

5 Morgan Stanley DW Inc.

6
7 Dated: 1/26, 2004

8 By: Robert Elman

9
10 Its: Executive Director

11 **IT IS SO ORDERED**

12
13 Dated: _____, 2004

Basil Lewis
Basil Lewis
Industry Arbitrator/Chair

14
15 Dated: _____, 2004

John H. Knight, Jr.
John H. Knight, Jr.
Industry Arbitrator

16
17
18 Dated: 10/6, 2004

Robert Elman
Robert Elman
Industry Arbitrator

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