

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

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In the Matter of the Arbitration Between:

Claude Hughes and Betty Hughes, Claimants v. Morgan Stanley DW Inc. and Sandra R. Masiel,  
Respondents

Case Number: 03-00177

Hearing Site: Los Angeles, California

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**REPRESENTATION OF PARTIES**

For Claimants:

Claude Hughes  
Betty Hughes  
In Propria Persona  
Camarillo, California

For Respondents:

Christine A. Kendrick, Esq.  
Morgan Stanley DW Inc.  
San Francisco, California

**CASE INFORMATION**

Statement of Claim filed: January 6, 2003

Amended Statement of Claim filed: March 6, 2003

Claimants Claude Hughes' and Betty Hughes' Joint Uniform Submission Agreement signed:  
January 6, 2003

Joint Statement of Answer filed by Respondents Morgan Stanley DW Inc. and Sandra R. Masiel:  
March 14, 2003

**CASE SUMMARY**

Claimants' Statement of Claim alleged breach of contract, breach of fiduciary duty, misrepresentation, negligence and failure to supervise in regard to their investment accounts held with Respondent Morgan Stanley DW Inc. Claimants' Amended Statement of Claim made the additional allegation of negligent infliction of emotional distress. Claimants' allegations concerned unspecified mutual funds and stocks.

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

### **RELIEF REQUESTED**

Claimants' Initial Statement of Claim requested compensatory damages of \$281,000.00 and reimbursement of filing fees of \$1,425.00. Claimants' Amended Statement of Claim requested additional damages of \$200,000.00 for emotional distress.

Respondents requested dismissal of the Claimants' Statement of Claim in its entirety and reimbursement of costs. Respondents also requested that the Panel recommend expungement of all reference to the above-captioned arbitration from Respondent Sandra R. Masiel's registration records maintained by the NASD Central Registration Depository.

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

On January 22, 2003, Claimants Claude Hughes and Betty Hughes 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.

On March 31, 2003, Respondents' counsel, Christine A. Kendrick signed a Waiver Agreement on Respondents' behalf, expressly waiving any and all rights and benefits under California Civil Code Section 1542 and the California Ethical Standards for Neutral Arbitrators.

On March 6, 2003, Claimants filed an Amended Statement of Claim pursuant to the NASD Code of Arbitration Procedure Rule 10328(a).

Respondents Morgan Stanley DW Inc. and Sandra R. Masiel did not file with the NASD Dispute Resolution properly executed submission agreements; however, all said Respondents are required to submit to arbitration and Respondents Morgan Stanley DW Inc. and Sandra R. Masiel, having answered the claim and having appeared and testified at the hearing, are bound by the determination of the Panel on all issues submitted.

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) Claimants' claims are denied in their entirety.
- 2) The parties shall bear their respective costs, including attorney's fees.
- 3) The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Sandra R. Masiel's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 99-09, Respondent Sandra R. Masiel must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.
- 4) 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	= \$ 300.00
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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
Hearing Process Fee	= \$ 2,750.00
<b>Total Member Fees</b>	<b>= \$ 5,200.00</b>

#### **Forum Fees and Assessments**

The Panel has assessed forum fees for each session conducted. A session is any meeting between the parties and the Panel or Chairperson, including a pre-hearing conference, that lasts four (4) hours or less. The following fees are assessed:

One (1) Pre-hearing conference session with the Panel @ \$1,125.00/session	= \$ 1,125.00
Pre-hearing conference: June 9, 2003	1 session
Four (4) Hearing sessions with the Panel @ \$1,125.00/session	= \$ 4,500.00
Hearings: July 22, 2003	2 sessions
July 23, 2003	2 sessions
<b>Total Forum Fees</b>	<b>= \$ 5,625.00</b>

1. The Panel assessed \$2,812.50 of the forum fees jointly and severally to Claimants Claude Hughes and Betty Hughes.
2. The Panel assessed \$2,812.50 of the forum fees jointly and severally to Respondents Morgan Stanley DW Inc. and Sandra R. Masiel.

**Fee Summary**

1. Claimants Claude Hughes and Betty Hughes are charged jointly and severally with the following fees and costs:

Initial Filing Fee	= \$ 300.00
Forum Fees	= \$ 2,812.50
Total Fees	= \$ 3,112.50
Less payments	= \$(1,425.00)
<b>Balance Due NASD Dispute Resolution</b>	<b>= \$ 1,687.50</b>

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

Member Fees	= \$ 5,200.00
Less payments	= \$(2,450.00)
<b>Balance Due NASD Dispute Resolution</b>	<b>= \$ 2,750.00</b>

3. Respondents Morgan Stanley DW Inc. and Sandra R. Masiel are charged jointly and severally with the following fees and costs:

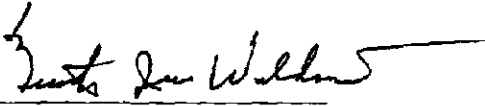
Forum Fees	= \$ 2,812.50
<b>Balance Due NASD Dispute Resolution</b>	<b>= \$ 2,812.50</b>

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.

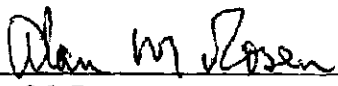
**ARBITRATION PANEL**

<i>Newton Ira Waldman, Esq.</i>	-	<i>Public Arbitrator, Presiding Chair</i>
<i>Alan M. Rosen</i>	-	<i>Public Arbitrator</i>
<i>Donald L. Lisle</i>	-	<i>Non-Public Arbitrator</i>

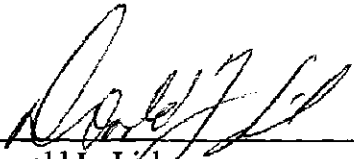
**Concurring Arbitrators' Signatures**

  
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Newton Ira Waldman, Esq.  
Chair, Public Arbitrator

7/23/03  
Signature Date

  
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Alan M. Rosen  
Public Arbitrator

7/23/03  
Signature Date

  
\_\_\_\_\_  
Donald L. Lisle  
Non-Public Arbitrator

7/23/03  
Signature Date

7/23/03  
Date of Service