

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Yi Qin, Claimant v. Morgan Stanley DW Inc. and Clerisse Wong, Respondents

Morgan Stanley DW Inc., Third-Party Claimant v. Philip Wen, Third-Party Respondent

Case Number: 03-00464

Hearing Site: Los Angeles, California

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

REPRESENTATION OF PARTIES

For Claimant Yi Qin:

Zev S. Brooks, Esq.
Law Offices of Zev S. Brooks
Los Alamitos, California

For Respondent / Third-Party Claimant

Morgan Stanley DW Inc. (hereinafter "Morgan Stanley DW Inc."): Kevin K. Fitzgerald, Esq.
William M. Turner, Esq.
Jones, Bell, Abbott, Fleming
& Fitzgerald L.L.P.
Los Angeles, California

For Respondent Clerisse Wong:

Clerisse Wong
In Propria Persona
Montebello, California

For Third-Party Respondent Philip Wen:

Philip Wen
In Propria Persona
Los Angeles, California

CASE INFORMATION

Statement of Claim filed: January 16, 2003

Claimant Yi Qin's Uniform Submission Agreement signed: February 7, 2003

Statement of Answer filed by Morgan Stanley DW Inc.: April 18, 2003

Third-Party Claim filed by Morgan Stanley DW Inc.: April 18, 2003

Third-Party Respondent Philip Wen's Uniform Submission Agreement signed: September 26, 2005

CASE SUMMARY

Claimant Yi Qin alleged breach of fiduciary duty, breach of contract, and failure to supervise, involving shares of Juniper Networks and Newport Corp.

In its Answer, Morgan Stanley DW Inc. denied the allegations of wrongdoing set forth in the Claimant's Statement of Claim and asserted various affirmative defenses.

In its Third-Party Claim, Morgan Stanley DW Inc. alleged breach of contract and breach of covenant of good faith and fair dealing involving a settlement agreement in a prior arbitration.

RELIEF REQUESTED

Claimant Yi Qin requested \$218,448.97 in compensatory damages, reimbursement of commissions, interest at the legal rate from February 15, 2001 to the date an Award is entered, and costs, including attorney's fees.

In its Answer, Morgan Stanley DW Inc. requested dismissal of the Claimant's Statement of Claim in its entirety, expungement of all references to this arbitration from Respondent Clerisse Wong's registration records maintained by the NASD Central Registration Depository ("CRD"), and costs.

In its Third-Party Claim, Morgan Stanley DW Inc. requested dismissal of the Claimant's Statement of Claim in its entirety, and costs, including attorney's fees.

OTHER ISSUES CONSIDERED AND DECIDED

Morgan Stanley DW Inc. did not file with NASD Dispute Resolution a properly executed submission agreement, but is required to submit to arbitration pursuant to the Code and, having answered the claim, appeared and testified at the hearing, is bound by the determination of the Panel on all issues submitted.

Respondent Clerisse Wong did not file with NASD Dispute Resolution a properly executed submission agreement, but is required to submit to arbitration pursuant to the Code and, having appeared and testified at the hearing, is bound by the determination of the Panel on all issues submitted.

On April 18, 2003, Morgan Stanley DW Inc. filed a Third-Party Claim pursuant to the NASD Code of Arbitration Procedure Rule 10328(a).

On February 18, 2003, Claimant Yi Qin's counsel signed a Waiver Agreement on her behalf expressly waiving any and all rights and benefits under California Civil Code Section 1542 and the California Ethical Standards for Neutral Arbitrators.

On February 25, 2003, Morgan Stanley DW Inc.'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.

On January 14, 2005, Third-Party Respondent Philip Wen and Third-Party Respondent Philip Wen's counsel 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 evidentiary hearing, Morgan Stanley DW Inc. brought a verbal motion to dismiss. Claimant Yi Qin opposed the motion. After hearing oral argument from the parties, and deliberating, the Panel denied Morgan Stanley DW Inc.'s motion to dismiss.

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 Yi Qin's claims are denied in their entirety.
- 2) Claimant Yi Qin and Third-Party Respondent Philip Wen are jointly and severally liable to and shall pay Morgan Stanley DW Inc. the sum of \$10,000.00 in attorney's fees. Attorney's fees are awarded due to the frivolous nature of Claimant's claim and pursuant to Morgan Stanley DW Inc.'s request in the Third-Party Claim.
- 3) The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Clerisse Wong's registration records maintained by the NASD CRD, with the understanding that pursuant to NASD Notice to Members 99-09 and 99-54, Respondent Clerisse Wong must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.
- 4) Except as awarded above, the parties shall bear their respective costs, including attorney's fees.
- 5) 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
Morgan Stanley DW Inc.'s Third-Party Claim	= \$ 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 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
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: March 17, 2005 1 session

5 Hearing sessions @ \$1,125.00/session = \$ 5,625.00
Hearings: September 26, 2005 2 sessions
September 27, 2005 2 sessions
September 28, 2005 1 session

Total Forum Fees = \$ 6,750.00

The Panel assessed \$6,750.00 of the forum fees jointly and severally to Claimant Yi Qin and Third-Party Respondent Philip Wen.

Fee Summary

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

Initial Filing Fee	= \$ 300.00
<u>Less payments</u>	= \$(300.00)
Balance Due NASD Dispute Resolution	= \$ 0.00

2. Claimant Yi Qin and Third-Party Respondent Philip Wen are charged jointly and severally with the following fees and costs:

Forum Fees	= \$ 6,750.00
<u>Less payments made by Claimant Yi Qin</u>	= \$(1,125.00)
Balance Due NASD Dispute Resolution	= \$ 5,625.00

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

Third-Party Claim Filing Fee	= \$ 500.00
<u>Member Fees</u>	= \$ 5,200.00
Total Fees	= \$ 5,700.00
<u>Less payments</u>	= \$(7,450.00)
Refund Due Morgan Stanley DW Inc.	= \$(1,750.00)

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

David W. Dresnick	Public Arbitrator, Presiding Chair
George L. Tindall	Public Arbitrator
Salvatore A. Sciortino	Non-Public Arbitrator

Concurring Arbitrators' Signatures



David W. Dresnick
Chair, Public Arbitrator

9/29/05
Signature Date

George L. Tindall
Public Arbitrator

Signature Date

Salvatore A. Sciortino
Non-Public Arbitrator

Signature Date

9/29/05
Date of Service

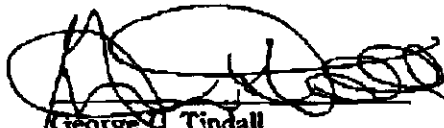
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George L. Tindall	-	Public Arbitrator
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Concurring Arbitrators' Signatures

David W. Dresnick
Chair, Public Arbitrator

Signature Date


George L. Tindall
Public Arbitrator

Sept 28, 2005
Signature Date

Salvatore A. Sciortino
Non-Public Arbitrator

Signature Date

9/29/05
Date of Service

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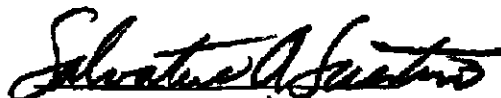
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