

Stipulated Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Suzanne Magers, Individually and as Trustee of The Magers Family Marital Trust, The Magers Family Decedent's Trust, The Magers Descendents Trust, The Magers Family Exempt Marital Trust, The Magers Family Survivors Trust, and The Magers Family Decedent's Trust, Claimant v. Morgan Stanley DW Inc., Jon K. Harris, and Christopher M. Jette, Respondents

Case Number: 03-00655

Hearing Site: San Diego, California

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

REPRESENTATION OF PARTIES

For Claimant:

**G. Mark Brewer, Esq.
Brewer Carlson, LLP
La Jolla, California**

For Respondents:

**Jeffrey F. Silverman, Esq.
Morgan Stanley Law Department
San Francisco, California**

CASE INFORMATION

Statement of Claim filed: January 24, 2003

Claimant's Uniform Submission Agreement signed: January 22, 2003

Joint Statement of Answer filed by Respondents: April 4, 2003

Respondent Morgan Stanley DW Inc.'s Uniform Submission Agreement signed:
April 21, 2003 and September 12, 2003

Respondent Jon K. Harris' Uniform Submission Agreement signed: April 25, 2003 and
June 3, 2003

Respondent Christopher M. Jette's Uniform Submission Agreement signed: June 3, 2003

CASE SUMMARY

Claimant alleged, *inter alia*, negligence, failure to supervise and misrepresentation involving, but not limited to, the purchase and/or sale of Applied Materials, Inc., Cisco Systems, Inc., LSI Logic Corp., Sun Microsystems, Inc., MCI Worldcom, Inc., Georgia Pacific, Intel Corp., Bristol Myers, Wall Mart Stores, Inc., and Citigroup, Inc. securities.

Respondents denied each of the allegations set forth in the Statement of Claim.

RELIEF REQUESTED

Claimant requested an award of alleged damages in the amount of \$614,820.70, attorneys' fees, and unspecified punitive damages.

Respondents requested that the claims asserted against them be denied in their entirety, that this matter be expunged from the Central Registration Depository ("CRD") record of Respondents Jon K. Harris and Christopher M. Jette, and that they be awarded their costs.

OTHER ISSUES CONSIDERED AND DECIDED

On January 23, 2003, Claimant and Claimant'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.

On April 4, 2003 and July 8, 2003, Respondents' counsel 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 February 2, 2005, NASD Dispute Resolution received notice of settlement.

The parties have entered into a Stipulation wherein they agreed;

- To dismiss, with prejudice, all claims asserted against Respondents;
- That Claimant does not oppose Respondents' request for an order expunging any reference of this matter from the public and non-public NASD and CRD records of Respondents Harris and Jette.
- Each party shall bear its own costs and attorney's fees. The NASD shall retain any fees already paid by the parties, subject to either party's right, under the Code, to obtain complete or partial refund of fees paid.

The parties have agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award may be entered. In either case, the parties have agreed to receive conformed copies of the award while the original(s) remain on file with the NASD Dispute Resolution (the "NASD").

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) The Claimant dismisses, with prejudice, all claims asserted against Respondents Morgan Stanley DW Inc. and individual Respondents Jon K. Harris and Christopher M. Jette.
- 2) The panel recommends the expungement of all reference to the above captioned arbitration from Respondent Jon K. Harris' registration records maintained by CRD, with the understanding that pursuant to NASD Notices to Members 99-09 and 99-54, Respondent Jon K. Harris 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 Christopher M. Jette's registration records maintained by CRD, with the understanding that pursuant to NASD Notices to Members 99-09 and 99-54, Respondent Christopher M. Jette must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

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
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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	= \$ 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

Adjournment Fees

The following adjournment fees are assessed:

Hearing Dates, May 25-28, 2004
adjournment requested by the Parties = \$ 1,200.00

Hearing Dates, November 2-5, 2004
adjournment requested by the Parties = \$ 1,500.00

1. Pursuant to Rule 10403(b) of the Code, the adjournment fee for the May 25-28, 2004 adjournment is waived.
2. The Panel assessed \$1,500.00 of the adjournment fees jointly and severally to Respondents Morgan Stanley DW Inc., Jon K. Harris, and Christopher M. Jette.

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 or the Parties and the Panel. The following fees are assessed:

One (1) Pre-hearing conference session with a single arbitrator @ \$450.00/session = \$ 450.00
Pre-hearing conference: November 17, 2003 1 session

Two (2) Pre-hearing conference sessions with the Panel @ \$1,200.00/session = \$ 2,400.00
Pre-hearing conferences: August 26, 2003 1 session
May 7, 2004 1 session

Total Forum Fees = **\$ 2,850.00**

1. The Panel assessed \$1,200.00 of the forum fees to Claimant.
2. The Panel assessed \$1,050.00 of the forum fees to Respondent Morgan Stanley DW Inc.
3. The Panel assessed \$600.00 of the forum fees jointly and severally to Respondents Morgan Stanley DW Inc., Jon K. Harris, and Christopher M. Jette.

Fee Summary

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

Initial Filing Fee	= \$ 375.00
Forum Fees	= \$ 1,200.00
Total Fees	= \$ 1,575.00
Less payments	= \$(1,575.00)
Balance Due NASD Dispute Resolution	= \$ 0.00

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

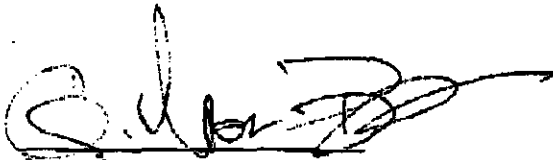
Member Fees	= \$ 7,000.00
Forum Fees	= \$ 1,050.00
Total Fees	= \$ 8,050.00
Less payments	= \$(8,050.00)
Balance Due NASD Dispute Resolution	= \$ 0.00

3. Respondents Morgan Stanley DW Inc., Jon K. Harris, and Christopher M. Jette are charged jointly and severally with the following fees and costs:

Adjournment Fee	= \$ 1,500.00
Forum Fees	= \$ 600.00
Total Fees	= \$ 2,100.00
Less Payment by Morgan Stanley DW Inc.	= \$(2,650.00)
Refund Due Morgan Stanley DW Inc.	= \$(550.00)

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.

Parties' Signatures



G. Mark Brewer, Esq.

**For Claimant Suzanne Magers, Individually
and as Trustee of The Magers Family
Marital Trust, The Magers Family
Decedent's Trust, The Magers Descendents
Trust, The Magers Family Exempt Marital
Trust, The Magers Family Survivors Trust,
and The Magers Family Decedent's Trust**

2/15/05
Signature Date

Jeffrey F. Silverman, Esq.


**For Respondents Morgan Stanley DW Inc.,
Jon K. Harris, and Christopher M. Jette**

Signature Date

Parties' Signatures

G. Mark Brewer, Esq.
For Claimant Suzanne Magers, Individually
and as Trustee of The Magers Family
Marital Trust, The Magers Family
Decedent's Trust, The Magers Descendents
Trust, The Magers Family Exempt Marital
Trust, The Magers Family Survivors Trust,
and The Magers Family Decedent's Trust

Signature Date


Jeffrey F. Silverman, Esq.
For Respondents Morgan Stanley DW Inc.,
Jon K. Harris, and Christopher M. Jette

2/8/05
Signature Date

ARBITRATION PANEL

James J. Dobbin, Esq.	-	Public Arbitrator, Presiding Chair
Kenneth E. Alexander	-	Public Arbitrator
Dennis Michael Kelleher	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures:

James J. Dobbin, Esq.

James J. Dobbin, Esq.
Chair, Public Arbitrator

2/17/05
Signature Date

Kenneth E. Alexander
Public Arbitrator

Signature Date

Dennis Michael Kelleher
Non-Public Arbitrator

Signature Date

2/23/05
Date of Service

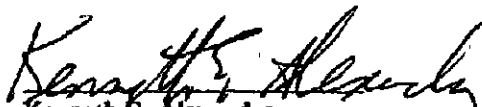
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Dennis Michael Kelleher	-	Non-Public Arbitrator

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James J. Dobbin, Esq.
Chair, Public Arbitrator

Signature Date


Kenneth E. Alexander
Public Arbitrator


Signature Date

Dennis Michael Kelleher
Non-Public Arbitrator

Signature Date


Date of Service

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Kenneth E. Alexander	-	Public Arbitrator
Dennis Michael Kelleher	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures:

James J. Dobbin, Esq.
Chair, Public Arbitrator

Signature Date

Kenneth E. Alexander
Public Arbitrator

Signature Date



Dennis Michael Kelleher
Non-Public Arbitrator

2-16-05

Signature Date

2/23/05

Date of Service