

**Stipulated Award
NASD Dispute Resolution**

In the Matter of the Arbitration Between:

Kenneth and Dorothy Nolan,
Claimants

Case Number: - 03-01176

v.

Morgan Stanley DW, Inc. and Steven T. Fischer,
Respondents

Hearing Site: Milwaukee, Wisconsin

NATURE OF THE DISPUTE

Customers vs. Member Firm and Associated Person

REPRESENTATION OF PARTIES

Kenneth and Dorothy Nolan (the "Nolans"), hereinafter collectively referred to as "Claimants": Steven G. Kmiec, Esq. of Kmiec Law Offices, located in Milwaukee, Wisconsin.

Morgan Stanley DW, Inc. ("Morgan Stanley") and Steven T. Fischer ("Fischer"), hereinafter collectively referred to as "Respondents": Wendy Robinson of Morgan Stanley DW, Inc. located in San Francisco, California. Respondents were later represented by Bruce Lewitas of Lewitas & May, located in Chicago, Illinois.

CASE INFORMATION

Statement of Claim filed on or about: February 14, 2003

Claimants signed the Uniform Submission Agreement: January 23, 2003

Statement of Answer filed by Respondents Morgan Stanley and Fischer on or about: April 22, 2003

Respondent Morgan Stanley signed the Uniform Submission Agreement: March 14, 2003

Respondent Fischer signed the Uniform Submission Agreement: April 17, 2003

CASE SUMMARY

Claimants asserted the following causes of action: unauthorized trading, negligence and breach of fiduciary duty. The causes of action relate to shares in Aberdeen Asia-Pacific Prime Income Fund, Inc. ("Aberdeen"). Claimants asserted that trades made on Aberdeen were unauthorized.

Unless specifically admitted in its Answer, Respondents Morgan Stanley and Fischer denied the allegations made in the Statement of Claim and asserted the following defenses:

1. Claimants authorized, approved and ratified the transactions in question;
2. Claimants knew of and assumed the risks with respect to the transactions;
3. These claims are barred by the theories of contributory and/or comparative negligence;
4. *These claims are barred by the doctrine of unclean hands;*
5. The claims are barred by the doctrine of laches; and
6. Claimants' damages, if any, were caused by market forces beyond the control of Respondent.

RELIEF REQUESTED

Claimants requested \$61,460.00 in compensatory damages; \$400,000.00 in punitive damages; costs, interest and attorney's fees.

Respondents, Morgan Stanley and Fischer, requested dismissal of Claimants' claims. In furtherance of the parties' agreement concerning the resolution of this matter, Claimants and Respondents seek an Order recommending expungement of the CRD registration records of Respondent, Steven T. Fischer, of all reference to these proceedings.

OTHER ISSUES CONSIDERED AND DECIDED

A hearing was held to consider Respondent Steven T. Fischer's request to expunge his record maintained by the NASD Central Registration Depository ("CRD"). After the Panel's consideration, the Panel unanimously agreed to expunge Respondent Steven T. Fischer's CRD record.

AWARD

After considering the parties' submissions and representations, and having heard the parties' arguments for findings of fact, the undersigned arbitrators order as follows:

- 1.) Claimants dismiss all claims with prejudice against Respondents, Morgan Stanley DW, Inc. and Steven T. Fischer.
- 2.) Claimants' claims are hereby dismissed in their entirety with prejudice, and all other requests for relief are denied.
- 3.) Respondents have proposed and Claimants support a Stipulated Award by the Panel expunging Claimants' complaint and the arbitration from the Central Registration Depository ("CRD") record of Steven T. Fischer.
- 4.) The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Steven T. Fischer's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 99-09, Respondent Fischer must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive
- 5.) That any relief not specifically enumerated, including punitive damages is hereby denied with prejudice.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Dispute Resolution will retain or collect the non-refundable filing fees for each claim:
Initial claim filing fee = \$ 300.00

Adjournment Fees

Adjournments requested during these proceedings:

February 17-19, 2004 adjournment by Kenneth ad Dorothy Nolan	= \$1,125.00 (waived by Panel)
February 23-25, 2005, adjournment by Morgan Stanley DW, Inc.	= \$1,125.00 (waived by Panel)

Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm that employed the associated person at the time of the events giving rise to the dispute. In this matter, Morgan Stanley DW, Inc. is a party to this proceeding.

Member surcharge	= \$1,700.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$2,750.00

Forum Fees and Assessments

The Panel assesses forum fees for each hearing session conducted. A hearing session is any meeting between the parties and the arbitrators, including a pre-hearing conference with the arbitrators, that lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) Pre-hearing session x \$1,125.00	= \$1,125.00
Pre-Hearing Dates:	October 22, 2003 1 session
	December 12, 2005 1 session
Total Forum Fees	= \$2,250.00

1. The Panel assessed 50% of the total forum fees in the amount of \$1,125.00 jointly to Claimants, Kenneth and Dorothy Nolan.
2. The Panel assessed 50% of the total forum fees in the amount of \$1,125.00 jointly and severally to Respondents, Morgan Stanley DW, Inc. and Steven T. Fischer.

FEE SUMMARY

Claimants Kenneth and Dorothy Nolan, are hereby jointly liable for:

Initial Filing Fee	= \$ 300.00
Forum Fees	= \$1,125.00
Total Fees	= \$1,425.00
Less payments (\$562.50 refunded on 9/13/05)	= \$ 862.50
Balance Due from NASD Dispute Resolution	= \$ 562.50

Respondent, Morgan Stanley DW, Inc. is hereby solely liable for:

Member Fees	= \$5,200.00
Less payments	= \$5,200.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondents, Morgan Stanley DW, Inc. and Steven T. Fischer, are hereby jointly and severally liable for:

Forum Fees	= \$1,125.00
Less payments	= \$ 562.50
Balance Due NASD Dispute Resolution	= \$ 562.50

All balances are due to NASD Dispute Resolution.

ARBITRATION PANEL

Herbert Neuer, Esq.	-	Public Arbitrator, Presiding Chairperson
George R. Fleischli, Esq.	-	Public Arbitrator
Ramona V. Larson	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

/s/ Herbert Neuer, Esq.
Herbert Neuer, Esq.
Public Arbitrator, Presiding Chair

12/12/05
Signature Date

/s/ George R. Fleischli, Esq.
George R. Fleischli, Esq.
Public Arbitrator

12/12/05
Signature Date

/s/ Ramona V. Larson
Ramona V. Larson
Non-Public Arbitrator

12/12/05
Signature Date

12/13/05
Date of Service (For NASD office use only)


NASD Dispute Resolution
Arbitration 03-01176
Award Page 4 of 4

All balances are due to NASD Dispute Resolution.

ARBITRATION PANEL

Herbert Neuer, Esq.	-	Public Arbitrator, Presiding Chairperson
George R. Fleischli, Esq.	-	Public Arbitrator
Ramona V. Larson	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures



Herbert Neuer, Esq.
Public Arbitrator, Presiding Chair

12/12/05

Signature Date

George R. Fleischli, Esq.
Public Arbitrator

Signature Date

Ramona V. Larson
Non-Public Arbitrator

Signature Date

Date of Service (For NASD office use only)

All balances are due to NASD Dispute Resolution.

ARBITRATION PANEL

Herbert Neuer, Esq.	-	Public Arbitrator, Presiding Chairperson
George R. Fleischli, Esq.	-	Public Arbitrator
Ramona V. Larson	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

Herbert Neuer, Esq.
Public Arbitrator, Presiding Chair

Signature Date



George R. Fleischli, Esq.
Public Arbitrator



Signature Date

Ramona V. Larson
Non-Public Arbitrator

Signature Date

Date of Service (For NASD office use only)

NASD Dispute Resolution
Arbitration 03-01176
Award Page 4 of 4

All balances are due to NASD Dispute Resolution.

ARBITRATION PANEL

Herbert Neuer, Esq.	-	Public Arbitrator, Presiding Chairperson
George R. Fleischli, Esq.	-	Public Arbitrator
Ramona V. Larson	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

Herbert Neuer, Esq.
Public Arbitrator, Presiding Chair

Signature Date

George R. Fleischli, Esq.
Public Arbitrator

Signature Date



Ramona V. Larson
Non-Public Arbitrator

12/12/05
Signature Date

Date of Service (For NASD office use only)