

AWARD
NASD Dispute Resolution

In the Matter of the Arbitration Between

Name of Claimant

James J. Daly

and

Case Number: 03-01392
Hearing Site: Detroit, Michigan

Names of Respondents

Morgan Stanley DW, Inc. and
Michael T. Hopkins

NATURE OF DISPUTE

Customer v. Member and Associated Person

REPRESENTATION OF PARTIES

James J. Daly ("Claimant") was represented by Patrick M. Hincks, Esq., and Desmond Patrick Curran, Esq., Law Offices of Sullivan Hincks & Conway, Oak Brook, Illinois.

Morgan Stanley DW, Inc. ("MSDW") and Michael T. Hopkins ("Respondent") were represented by Eric A. Michaels, Esq., Gary M. Saretsky, Esq., and Miles D. Hart, Esq., Hertz, Schram & Saretsky, P.C., Bloomfield Hills, Michigan. Respondents were represented by Mark Werder, Esq., Honigman Miller, Schwartz & Cohn until on or about May 9, 2003.

CASE INFORMATION

The Statement of Claim was filed on or about February 24, 2003. The Submission Agreement of Claimant, James J. Daly, was signed on or about February 20, 2003.

The Statement of Answer and Motion to Dismiss was filed jointly by Respondents, MSDW and Hopkins, on or about June 5, 2003. The Submission Agreement of Respondent, Michael T. Hopkins, was signed on or about October 31, 2003.

Respondents filed an additional Motion to Dismiss on or about June 17, 2004. Claimant filed a Response to the Motion to Dismiss on or about July 23, 2004.

CASE SUMMARY

Claimant asserted the following causes of action: negligent handling, failure to supervise, and suitability. The causes of action related to the use of margin in Claimant's account. Claimant asserted that Respondents' actions ignored Claimant's investment directives and his investor profile by recommending that Claimant engage in margin trading, liquidate his blue chip stocks, and invest in unspecified highly speculative tech stocks.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted affirmative defenses including the following: the Statement of Claim fails to state a claim upon which relief can be granted; all transactions were authorized and/or ratified; no misrepresentations or omissions of material facts were made; Claimant's claims may be barred (in whole or in part) by the applicable statutes of limitations or the equitable doctrines of waiver, estoppel and/or laches; and Claimant cannot establish transaction causation or loss causation.

RELIEF REQUESTED

Claimant requested an award in the amount of \$450,000.00 in compensatory damages, plus \$250,000.00 in punitive damages, interest, costs, and attorneys' fees.

Respondents requested that the claims asserted against them be denied in their entirety, that they be awarded their costs and attorneys' fees, and that all references to this matter be expunged from Hopkins' CRD record.

OTHER ISSUES CONSIDERED & DECIDED

Respondent, Morgan Stanley DW, Inc., did not file with NASD Dispute Resolution a properly executed submission to arbitration but is required to submit to arbitration pursuant to Rule 10301 of the NASD Code of Arbitration Procedure (the "Code"), and having answered the claim, appeared and testified at the pre-hearing conference through counsel, is bound by the determination of the arbitration panel on all issues submitted.

The panel heard oral arguments on Respondents' Motion to Dismiss on August 25, 2004. The panel grants Respondents' Motion herein. The panel finds that Claimant did not suffer any damages.

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 NASD Dispute Resolution ("NASD").

AWARD

After considering the pleadings, the testimony, and the evidence presented at the pre-hearing conference, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

- 1.) Claimant's claims, each and all, are denied and dismissed with prejudice;
- 2.) Other than Forum Fees which are specified below, the parties shall each bear their own costs and expenses incurred in this matter;

- 3.) The panel recommends the expungement of all reference to the above captioned arbitration from Respondent Michael T. Hopkins' registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 99-09, Respondent Michael T. Hopkins must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive; and
- 4.) Any relief not specifically enumerated, including punitive damages and attorney fees, 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 = \$ 375.00

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, the member firm is Morgan Stanley DW, Inc.

Member surcharge	= \$ 2,250.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$ 4,000.00

Forum Fees and Assessments

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

Two (2) Pre-hearing sessions with Panel x \$1,200.00	= \$ 2,400.00
Pre-hearing conferences: November 5, 2003 1 session	
August 25, 2004 1 session	
Total Forum Fees	= \$ 2,400.00

The Arbitration Panel has assessed \$2,400.00 of the forum fees to James J. Daly.

FEE SUMMARY

Claimant, James J. Daly, is liable for:

Initial Filing Fee	= \$ 375.00
Forum Fees	= \$ 2,400.00
Total Fees	= \$ 2,775.00
Less payments	= \$ 1,575.00
Balance Due NASD Dispute Resolution	= \$ 1,200.00

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

Member Fees	= \$ 7,000.00
Total Fees	= \$ 7,000.00
Less payments	= \$ 6,450.00
Balance Due NASD Dispute Resolution	= \$ 550.00

All balances are payable to NASD Dispute Resolution and are due upon receipt pursuant to Rule 10330(g) of the Code.

ARBITRATION PANEL

David L. Haron, JD - Public Arbitrator, Presiding Chair
John F. Burns, Esq. - Public Arbitrator
Robert W. Edler, Esq. - Non-Public Arbitrator

Concurring Arbitrators:

/s/ David L. Haron, JD
David L. Haron, JD
Public Arbitrator, Presiding Chair

08/25/04
Signature Date

/s/ John F. Burns, Esq.
John F. Burns, Esq.
Public Arbitrator

08/25/04
Signature Date

/s/ Robert W. Edler, Esq.
Robert W. Edler, Esq.
Non-Public Arbitrator

08/26/04
Signature Date

08/26/04
Date of Service (For NASD office use only)

NASD Dispute Resolution
Arbitration No. 03-01892
Award Page 4 of 4

FEE SUMMARY

Claimant, James J. Daly, is liable for:

Initial Filing Fee	= \$ 375.00
<u>Forum Fees</u>	<u>= \$ 2,400.00</u>
Total Fees	= \$ 2,775.00
<u>Less payments</u>	<u>= \$ 1,575.00</u>
Balance Due NASD Dispute Resolution	= \$ 1,200.00

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

Member Fees	= \$ 7,000.00
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Concurring Arbitrators:

David L. Haron, JD
Public Arbitrator, Presiding Chair

Signature Date

John F. Burns, Esq.
Public Arbitrator

Signature Date


Robert W. Edler, Esq.
Non-Public Arbitrator


Signature Date

Date of Service (For NASD office use only)

NASD Dispute Resolution
 Arbitration No. 03-01392
 Award Page 4 of 4

FEE SUMMARY

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Concurring Arbitrators:

David L. Haron, JD
 Public Arbitrator, Presiding Chair

Signature Date

John F. Burns
 John F. Burns, Esq.
 Public Arbitrator

August 25 '09
 Signature Date

Robert W. Edler, Esq.
 Non-Public Arbitrator

Signature Date

Date of Service (For NASD office use only)

NASD Dispute Resolution
Arbitration No. 08-07182
Award Page 6 of 6

FEE SUMMARY


Claimant, James J. Daly, is liable for:	
Initial Filing Fee	= \$ 575.00
Forum Fees	= \$ 2,400.00
Total Fees	= \$ 2,775.00
Less payments	= \$ 1,575.00
Balance Due NASD Dispute Resolution	= \$ 1,200.00
Respondent, Morgan Stanley DW, Inc., is liable for:	
Member Fees	= \$ 7,000.00
Total Fees	= \$ 7,000.00
Less payments	= \$ 6,450.00
Balance Due NASD Dispute Resolution	= \$ 550.00

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ARBITRATION PANEL

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John F. Burns, Esq. - Public Arbitrator
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Concurring Arbitrators:



David L. Haron, JD
Public Arbitrator, Presiding Chair

8/25/04

Signature Date

John F. Burns, Esq.
Public Arbitrator

Signature Date

Robert W. Edler, Esq.
Non-Public Arbitrator

Signature Date

Date of Service (For NASD office use only)