

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Tom Wieser and Jessica Wieser (Claimants) v. Morgan Stanley DW, Inc. and Charles Anderson (Respondents)

Case Number: 03-02399

Hearing Site: New York, New York

Nature of the Dispute: Customers v. Member and Associated Person.

REPRESENTATION OF PARTIES

Claimants Tom Wieser ("T. Wieser") and Jessica Wieser ("J. Wieser") hereinafter collectively referred to as "Claimants": Jay R. McDaniel, Esq., Sichenzia Ross Friedman Ference, LLP, New York, NY. Previously represented by: Jay R. McDaniel, Esq., Porzio, Bromberg & Newman, P.C., New York, NY.

Respondents Morgan Stanley DW, Inc. ("MSDW") and Charles Anderson ("Anderson") hereinafter collectively referred to as "Respondents": Ralph DeSena, Esq., Morgan Stanley DW, Inc., New York, NY. Previously represented by: Thomas M. Keane, Esq., Morgan Stanley DW, Inc., New York, NY.

CASE INFORMATION

Statement of Claim filed on or about: March 31, 2003.

Claimant T. Wieser signed the Uniform Submission Agreement: March 27, 2003.

Claimant J. Wieser signed the Uniform Submission Agreement: March 26, 2003.

Joint Statement of Answer filed by Respondents on or about: July 25, 2003.

Respondent MSDW signed the Uniform Submission Agreement.

Respondent Anderson signed the Uniform Submission Agreement: June 9, 2003.

CASE SUMMARY

Claimants asserted the following causes of action: common law fraud; securities fraud under the laws of the State of New Jersey; and/or negligent misrepresentation; negligence; breach of contract; breach of fiduciary duty; vicarious liability; and negligent supervision. Claimants' claim involved common stocks including, but not limited to, Conexant, America On-Line, Extreme Networks, and Rambus.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

Claimants requested compensatory damages in the amount of \$95,000.00; interest; punitive damages in the amount of \$150,000.00; and costs, disbursements, and attorneys' fees.

Respondents requested that the Panel dismiss the Statement of Claim in its entirety, with prejudice; costs and expenses; and such other relief as the Panel deems just and proper.

OTHER ISSUES CONSIDERED AND DECIDED

At the hearing, Claimants amended their Statement of Claim to remove punitive damages as a relief request.

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.

AWARD

After considering the pleadings, and the testimony and evidence presented at the hearing, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondent MSDW is liable for and shall pay to Claimant T. Wieser compensatory damages in the amount of \$40,000.00.
2. Respondent MSDW is liable for and shall pay to Claimant T. Wieser interest in the amount of \$7,500.00 calculated at the rate of 9% per annum from August 29, 2002 through September 9, 2004.
3. Any and all relief not specifically addressed herein is denied.

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
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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. Accordingly, Morgan Stanley DW, Inc. is a party.

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

Forum Fees and Assessments

The Panel has assessed forum fees for each session conducted. A 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 with Panel @ \$1,125.00	= \$1,125.00
Pre-hearing conference: December 19, 2003 1 session	
Two (2) Hearing sessions @ \$1,125.00	= \$2,250.00
Hearing Dates: September 8, 2004 2 sessions	
Two (2) Hearing sessions @ \$750.00	= \$1,500.00
Hearing Dates September 9, 2004 2 sessions	
Total Forum Fees	= \$4,875.00

1. The Panel has assessed \$2,437.50 of the forum fees jointly and severally against Claimants.
2. The Panel has assessed \$2,437.50 of the forum fees against Respondent MSDW.

Fee Summary

1. Claimants are jointly and severally liable for:

Initial Filing Fee	= \$ 300.00
Forum Fees	= \$2,437.50
Total Fees	= \$2,737.50
Less payments	= \$1,425.00
Balance Due NASD Dispute Resolution	= \$1,312.50
2. Respondent MSDW is solely liable for:

Member Fees	= \$5,200.00
Forum Fees	= \$2,437.50
Total Fees	= \$7,637.50
Less payments	= \$5,200.00
Balance Due NASD Dispute Resolution	= \$2,437.50

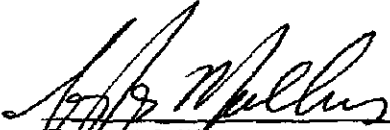
All balances are payable to NASD Dispute Resolution and are due upon receipt pursuant to Rule 10330(g) of the Code.

ARBITRATION PANEL

Costas Mallios	-	Public Arbitrator, Presiding Chairperson
Bernard Herman	-	Public Arbitrator
Harry J. Lundgren, Jr.	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

I, the undersigned arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument in which is my award.



Costas Mallios
Public Arbitrator, Presiding Chairperson

9/15/04

Signature Date

Bernard Herman
Public Arbitrator

Signature Date

Harry J. Lundgren, Jr.
Non-Public Arbitrator

Signature Date

September 21, 2004

Date of Service (For NASD Dispute Resolution use only)

ARBITRATION PANEL

Costas Mallios	-	Public Arbitrator, Presiding Chairperson
Bernard Herman	-	Public Arbitrator
Harry J. Lundgren, Jr.	-	Non-Public Arbitrator

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Costas Mallios
Public Arbitrator, Presiding Chairperson

Signature Date



Bernard Herman
Public Arbitrator

Sept 14, 2004

Signature Date

Harry J. Lundgren, Jr.
Non-Public Arbitrator

Signature Date

September 21, 2004

Date of Service (For NASD Dispute Resolution use only)

ARBITRATION PANEL

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Bernard Herman	-	Public Arbitrator
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Costas Mallios
Public Arbitrator, Presiding Chairperson

Signature Date

Bernard Herman
Public Arbitrator

Signature Date



Harry J. Lundgren, Jr.
Non-Public Arbitrator

Signature Date

September 21, 2004
Date of Service (For NASD Dispute Resolution use only)