

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Jeffrey A. Guthrie, Claimant v. Morgan Stanley DW Inc., Respondent

Case Number: 03-02767

Hearing Site: Los Angeles, California

Nature of the Dispute: Customer v. Member

REPRESENTATION OF PARTIES

For Claimant:

Michael Huberman, Esq.
Seth Huberman, Esq.
Huberman & Associates
La Quinta, California

For Respondent:

David Seide, Esq.
Morgan Stanley DW Inc.
Los Angeles, California

CASE INFORMATION

Statement of Claim filed: April 9, 2003

Claimant's Uniform Submission Agreement signed: April 3, 2003

Statement of Answer filed: July 9, 2003

Respondent's Uniform Submission Agreement signed: July 17, 2003

CASE SUMMARY

Claimant alleged breach of fiduciary duty, unsuitability, churning, negligence, violation of federal and state securities laws and NASD and NYSE Rules, and failure to supervise. Claimant's allegations involved stock transactions in companies primarily in the technology sector, including but not limited to Atmel Corporation, Cypress Semiconductor, Exodus Communications, JDS Uniphase, Qualcomm Inc., Research in Motion, Netguru, Sapient, Dauphin, Cisco, Primus, and Sun Microsystems.

Respondent denied the allegations of wrongdoing set forth in the Claimant's Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

Claimant requested \$115,000.00 in compensatory damages, unspecified punitive damages, pre- and post-judgment interest, and costs, including attorney's fees.

Respondent requested dismissal of the Claimant's Statement of Claim in its entirety, the expungement of all reference to the above-captioned arbitration from broker Scott Rosser's registration records maintained by the NASD Central Registration Depository, and costs.

OTHER ISSUES CONSIDERED AND DECIDED

On June 12, 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.

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.

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) Respondent is liable to and shall pay Claimant the sum of \$45,000.00 in compensatory damages.
- 2) The parties shall bear their respective costs, including attorney's fees.
- 3) 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
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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	= \$ 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 Chair or the parties and the Panel. The following fees are assessed:

Five (5) Hearing sessions @ \$1,125.00/session	= \$5,625.00
Hearings:	
March 29, 2004	2 sessions
March 30, 2004	2 sessions
March 31, 2004	1 session
Total Forum Fees	= \$5,625.00

1. The Panel assessed \$1,875.00 of the forum fees to Claimant.
2. The Panel assessed \$3,750.00 of the forum fees to Respondent.

Fee Summary

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

Initial Filing Fee	= \$ 300.00
<u>Forum Fees</u>	= \$ 1,875.00
Total Fees	= \$ 2,175.00
<u>Less payments</u>	= \$(1,425.00)
Balance Due NASD Dispute Resolution	= \$ 750.00

2. Respondent is charged with the following fees and costs:

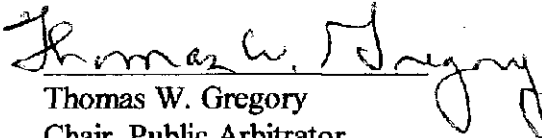
Member Fees	= \$ 5,200.00
<u>Forum Fees</u>	= \$ 3,750.00
Total Fees	= \$ 8,950.00
<u>Less payments</u>	= \$(2,450.00)
Balance Due NASD Dispute Resolution	= \$ 6,500.00

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.

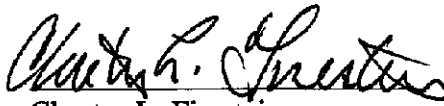
ARBITRATION PANEL

Thomas W. Gregory	-	Public Arbitrator, Presiding Chair
Chester L. Firestein	-	Public Arbitrator
Robert Elman	-	Non-Public Arbitrator


Concurring Arbitrators' Signatures


Thomas W. Gregory
Chair, Public Arbitrator

3/31/04
Signature Date


Chester L. Firestein
Public Arbitrator

3/31/04
Signature Date


Robert Elman
Non-Public Arbitrator

3/31/04
Signature Date

3/31/04
Date of Service