

Stipulated Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Scott Behm, Kristen S. Walter, The Estate of Charles Behm, The Behm Family Trust, Claimants
v. Morgan Stanley DW Inc., Bradley W. Poock, and Michael B. Yauch, Respondents

Case Number: 03-02873

Hearing Site: Los Angeles, California

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

REPRESENTATION OF PARTIES

For Claimants:

Thomas E. Francis, Esq.
Bohm Francis Kegel & Aguilera
Costa Mesa, California

For Respondents:

Paul J. Schumacher, Esq.
Bingham McCutchen, LLP
Los Angeles, California

CASE INFORMATION

Initial Statement of Claim filed: November 19, 2003

Amended Statement of Claim filed: May 18, 2004

Claimant Scott Behm's Uniform Submission Agreement signed: October 23, 2003

Claimant The Estate of Charles Behm's Uniform Submission Agreement signed: December 6, 2003

Claimant The Behm Family Trust's Uniform Submission Agreement signed: February 23, 2003

Joint Initial Statement of Answer filed by Respondents: March 3, 2004

Joint Amended Statement of Answer filed by Respondents: July 9, 2004

Respondent Morgan Stanley DW Inc., Bradley W. Poock, and Michael B. Yauch's Uniform

Submission Agreements each signed: March 3, 2004

CASE SUMMARY

Claimants' Initial and Amended Statements of Claim alleged breach of fiduciary duty, negligence, unsuitability, unauthorized trading, and failure to supervise. Claimants' allegations involved the use of margin and transactions in various securities, including but not limited to AtHome, Exodus, WorldCom, Atmel Corp., Gilead Sciences Inc., NaviSite Inc., Red Hat Inc., Triquint Semiconductor Inc.

Respondents denied the allegations of wrongdoing set forth in the Claimant's Statement of Claim.

RELIEF REQUESTED

Claimants Initial and Amended Statements of Claim requested \$ \$200,000.00 in compensatory damages, pre-hearing interest in the amount of \$66,000.00, and costs.

Respondents Initial and Amended Statements of Answer requested dismissal of the Claimant's Statement of Claim in its entirety.

OTHER ISSUES CONSIDERED AND DECIDED

On January 16, 2004, Claimants and Claimants' 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 March 3, 2004, 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.

The parties 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 Parties request for this stipulated award, the Panel decided in full and final resolution of the issues submitted for determination as follows:

1. Claimants and Respondents have entered into a confidential settlement agreement.
2. Claimants' claims are dismissed with prejudice.
3. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Bradley W. Pooock's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 99-09, Respondent Bradley W. Pooock must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.
4. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Michael Yauch's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 99-09, Respondent Michael Yauch must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.
5. The parties shall bear their respective costs, including attorney's fees.
6. 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 |
|--------------------------|-------------|

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 which 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:

| | |
|--|---------------------|
| One (1) Pre-hearing conference session with the Chair @ \$450.00/session | = \$ 450.00 |
| Pre-hearing conference: October 13, 2004 1 session | |
| One (1) Pre-hearing conference session with the Panel @ \$1,125.00/session | = \$1,125.00 |
| Pre-hearing conference: August 4, 2004 1 session | |
| Total Forum Fees | = \$1,575.00 |

1. The Panel assessed \$787.50 of the forum fees jointly and severally to Claimants.
2. The Panel assessed \$787.50 of the forum fees jointly and severally to Respondents.

Fee Summary

1. Claimants are charged jointly and severally charged with the following fees and costs:

| | |
|--|----------------------|
| Initial Filing Fee | = \$ 300.00 |
| Forum Fees | = \$ 787.50 |
| Total Fees | = \$ 1,087.50 |
| Less payments | = \$(1,425.00) |
| Refund Due from NASD Dispute Resolution | = \$ (337.50) |

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

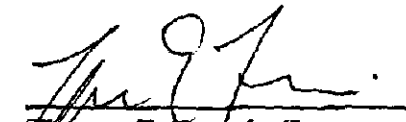
| | |
|--|------------------|
| Member Fees | = \$ 5,200.00 |
| Less payments | = \$(5,200.00) |
| Balance Due NASD Dispute Resolution | = \$ 0.00 |

3. Respondents Morgan Stanley DW Inc., Bradley W. Pooch, and Michael B. Yauch, are charged jointly and severally with the following fees and costs:

| | |
|--|--------------------|
| Forum Fees | = \$ 787.50 |
| Balance Due NASD Dispute Resolution | = \$ 787.50 |

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



Thomas E. Francis, Esq.
On behalf of Claimants

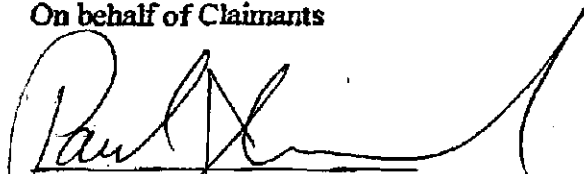
Dec 14, 2004
Signature Date

Paul J. Schumacher, Esq. on
On behalf of Respondents

Signature Date

Parties' Signatures

Thomas E. Francis, Esq.
On behalf of Claimants



Paul J. Schumacher, Esq. on
On behalf of Respondents

Signature Date

12/17/04
Signature Date

ARBITRATION PANEL

| | | |
|-----------------------------|---|---|
| <i>Eke Ochuru, Esq.</i> | - | <i>Public Arbitrator, Presiding Chair</i> |
| <i>G. Timothy Haight</i> | - | <i>Public Arbitrator</i> |
| <i>Michael C. Pocaterra</i> | - | <i>Non-Public Arbitrator</i> |

Concurring Arbitrators' Signature

Eke Ochuru, Esq.
Chair, Public Arbitrator

Signature Date

G. Timothy Haight
Public Arbitrator

Signature Date

Michael C. Pocaterra
Non-Public Arbitrator

Signature Date

Date of Service

ARBITRATION PANEL

Eke Ochuru, Esq.

G. Timothy Haight

Michael C. Pocaterra

-

-

-

Public Arbitrator, Presiding Chair

Public Arbitrator

Non-Public Arbitrator

Concurring Arbitrators' Signature



Eke Ochuru, Esq.

Chair, Public Arbitrator

1-7-05

Signature Date

G. Timothy Haight

Public Arbitrator

Signature Date

Michael C. Pocaterra

Non-Public Arbitrator

Signature Date

January 11, 2005

Date of Service

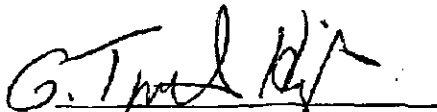
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| <i>G. Timothy Haight</i> | - | <i>Public Arbitrator</i> |
| <i>Michael C. Pocaterra</i> | - | <i>Non-Public Arbitrator</i> |

Concurring Arbitrators' Signature

Eke Ochuru, Esq.
Chair, Public Arbitrator

Signature Date



G. Timothy Haight
Public Arbitrator

12/26/04

Signature Date

Michael C. Pocaterra
Non-Public Arbitrator

Signature Date

January 11, 2005

Date of Service

ARBITRATION PANEL

| | | |
|-----------------------------|---|---|
| <i>Eke Ochuru, Esq.</i> | - | <i>Public Arbitrator, Presiding Chair</i> |
| <i>G. Timothy Haight</i> | - | <i>Public Arbitrator</i> |
| <i>Michael C. Pocaterra</i> | - | <i>Non-Public Arbitrator</i> |

Concurring Arbitrators' Signature

Eke Ochuru, Esq.
Chair, Public Arbitrator

Signature Date

G. Timothy Haight
Public Arbitrator

Signature Date



Michael C. Pocaterra
Non-Public Arbitrator

12-10-04

Signature Date

January 11, 2005

Date of Service