

Stipulated Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Russell Alan Rossier, Claimant v. Morgan Stanley Dean Witter & Co. and Cheryl Gerard,
Respondents

Case Number: 03-03228

Hearing Site: San Francisco, California

Nature of Dispute: Customer vs. Member and Associated Person

REPRESENTATION OF PARTIES

For Claimant:

David P. Warren, Esq.
Law Offices of David P. Warren
San Luis Obispo, California

For Respondents:

Kevin K. Fitzgerald, Esq.
Jennifer Z. Morris, Esq.
Jones, Bell, Abbott, Fleming
& Fitzgerald L.L.P.
Los Angeles, California

CASE INFORMATION

Statement of Claim filed: April 24, 2003

Claimant's Uniform Submission Agreement signed: May 15, 2003

Joint Statement of Answer filed by Respondents: September 3, 2003

Respondent Cheryl Denise Millard's (formerly Cheryl Gerard) Submission Agreement signed:
August 19, 2003

Respondent Morgan Stanley DW Inc.'s (erroneously named as Morgan Stanley Dean Witter &
Co.) Submission Agreement signed: August 27, 2003

CASE SUMMARY

Claimant alleged breach of contract, breach of fiduciary duty, negligence, and negligent supervision. Claimant's allegations involved Respondents alleged failure to prevent the alleged misappropriation of funds by a third party, Geraldine Gardner-Slattery.

Respondents denied all allegations of wrongdoing and asserted, among other things, that Claimant authorized his former fiancée, Ms. Gardner-Slattery, to withdraw funds from his account by giving Ms. Gardner-Slattery checks signed by Claimant and his ATM card (and password).

RELIEF REQUESTED

Claimant requested \$450,000.00 in compensatory damages, plus costs and attorneys' fees.

Respondents requested dismissal of the Claimant's Statement of Claim in its entirety, the expungement of all references to this claim from Respondent Cheryl Gerard's registration records maintained by the Central Registration Depository ("CRD"), and costs.

OTHER ISSUES CONSIDERED AND DECIDED

On February 7, 2004, 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.

On February 20, 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.

STIPULATION

The parties have entered into a confidential settlement agreement pursuant to which Claimant has agreed to dismiss his claims with prejudice and the parties have agreed to jointly request that an Award be issued expunging the references to this proceeding from the NASD Central Registration Depository ("CRD") records of Respondent Cheryl Denise Millard (formerly, Cheryl Gerard).

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. The Panel accepts the dismissal of each and every one of Claimant's claims asserted against Respondents with prejudice.
2. The Panel recommends the expungement of all reference to the above-captioned Arbitration from Respondent Cheryl Denise Millard's (formerly Cheryl Gerard) registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that Respondent Cheryl Denise Millard must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.
3. The parties shall bear their respective costs, including attorneys' fees.
4. 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
<u>Hearing Process Fee</u>	<u>= \$2,750.00</u>
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 Panel. The following fees are assessed:

One (1) Pre-hearing conference session with the Panel @ \$1,125.00/session	= \$1,125.00
<u>Pre-hearing conference: May 10, 2004 1 session</u>	
Total Forum Fees	= \$1,125.00

1. The Panel assessed \$562.50 of the forum fees to Claimant Russell Alan Rossier.
2. The Panel assessed \$562.50 of the forum fees jointly and severally to Respondents Morgan Stanley DW Inc. and Cheryl Denise Millard.

Fee Summary

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

Filing Fee	= \$ 300.00
<u>Forum Fee</u>	= \$ 562.50
Total Fees	= \$ 862.50
<u>Less payments</u>	= \$(1,425.00)
Refund Due to Claimant Russell Alan Rossier	= \$(562.50)

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

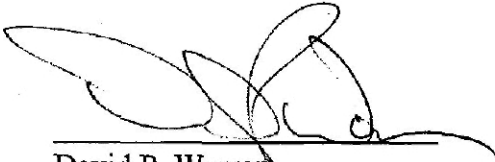
Member Fees	= \$ 5,200.00
<u>Less payments</u>	= \$(5,200.00)
Balance Due NASD Dispute Resolution	= \$ 0.00

3. Respondents Morgan Stanley DW Inc. and Cheryl Denise Millard are charged jointly and severally with the following fee:

Forum Fee	= \$ 562.50
<u>Less payments</u>	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 562.50

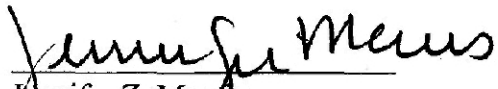
All balances are payable to NASD Dispute Resolution and are due upon the receipt of the Award pursuant to Rule 10330(g) of the Code.

Parties' Signatures



David P. Warren
Counsel for Claimant Russell Alan Rossier

9/8/04
Signature Date



Jennifer Z. Morris
Counsel for Respondents Morgan Stanley DW Inc.
and Cheryl Denise Millard

9/15/04
Signature Date

ARBITRATION PANEL

Cheryl R. Kershner, Esq.

Public Arbitrator, Presiding Chair

Minnie Loo

Public Arbitrator

Robert Gerber

Non-Public Arbitrator

Concurring Arbitrators' Signatures

Cheryl R. Kershner, Esq.
Chair, Public Arbitrator

Signature Date

Minnie Loo
Public Arbitrator

Signature Date

Robert M. Gerber
Non-Public Arbitrator

Signature Date

Date of Service

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Public Arbitrator, Presiding Chair

Minnie Loo

Public Arbitrator

Robert Greber

Non-Public Arbitrator

Concurring Arbitrators' Signatures



Cheryl R. Kershner, Esq.
Chair, Public Arbitrator

9/23/04
Signature Date

Minnie Loo
Public Arbitrator

Signature Date

Robert M. Greber
Non-Public Arbitrator

Signature Date

9/28/04
Date of Service

ARBITRATION PANEL

Cheryl R. Kershner, Esq.

Public Arbitrator, Presiding Chair

Minnie Loo

Public Arbitrator

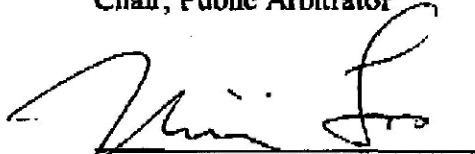
Robert Greber

Non-Public Arbitrator

Concurring Arbitrators' Signatures

Cheryl R. Kershner, Esq.
Chair, Public Arbitrator

Signature Date



Minnie Loo
Public Arbitrator

24 Sep 04
Signature Date

Robert M. Greber
Non-Public Arbitrator

Signature Date

9/28/04
Date of Service

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Public Arbitrator, Presiding Chair

Minnie Loo

Public Arbitrator

Robert Greber

Non-Public Arbitrator

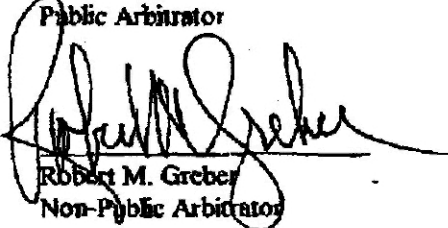
Concurring Arbitrators' Signatures

Cheryl R. Kershner, Esq.
Chair, Public Arbitrator

Signature Date

Minnie Loo
Public Arbitrator

Signature Date


Robert M. Greber
Non-Public Arbitrator


Signature Date

9/28/04
Date of Service