

**Award**  
**NASD Dispute Resolution**

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In the Matter of the Arbitration Between:

Name of the Claimant  
Deborah Blair Stevens

Case Number: 03-03307

Names of the Respondents  
Morgan Stanley DW Inc.  
John L. Williams

Hearing Site: Philadelphia, PA

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Nature of the Dispute: Customer vs. Member and Associated Person

**REPRESENTATION OF PARTIES**

Claimant, Deborah Blair Stevens ("Stevens"), hereinafter referred to as "Claimant", was represented at the hearing by Roger A. Johnson, Esq., Attorney at Law, and Stephen J. Springer, Esq., Attorney at Law, Philadelphia, Pennsylvania.

Respondents, Morgan Stanley DW Inc. ("Morgan Stanley") and John L. Williams ("Williams"), hereinafter collectively referred to as "Respondents", were represented by Timothy E. DiDomenico, Esq., Greenberg Traurig, LLP, New York, New York.

**CASE INFORMATION**

Statement of Claim filed on: April 22, 2003.

Claimant signed the Uniform Submission Agreement on: April 23, 2003.

Statement of Answer and Affirmative Defenses filed by Respondents on: July 28, 2003.

Thomas M. Keane, Vice-President of Respondent Morgan Stanley signed the Uniform Submission Agreement on: July 28, 2003.

Respondent Williams did not file an executed Uniform Submission Agreement.

**CASE SUMMARY**

Claimant asserted the following causes of action, among others: failure to supervise, breach of fiduciary duty, suitability and unauthorized trading. The causes of action relate to the purchase of various unspecified annuities, common stock, mutual funds and Unit Investment Trusts.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted the following defenses: failure to state a claim upon which relief may be granted, all investments were suitable, all transactions were authorized, failure to mitigate damages and ratification.

**RELIEF REQUESTED**

Claimant in her Statement of Claim requested:

Compensatory Damages	\$ 135,000.00
Punitive Damages	\$ 50,000.00
Interest	\$ 55,308.22
Attorneys' Fees	\$ 30,000.00
Other Costs	\$ 1,425.00

**OTHER ISSUES CONSIDERED AND DECIDED**

Respondent Williams did not file with NASD Dispute Resolution a properly executed submission to arbitration but is required to submit to arbitration pursuant to the Code and, having answered the claim, appeared and testified at the hearing, is bound by the determination of the Panel on all issues submitted.

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, 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. Claimant's claims are denied in their entirety;
2. Claimant's claims for punitive damages and attorneys' fees are denied in their entirety;
3. The Panel recommends the expungement of all reference to the above-captioned arbitration from Respondent Williams' registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notices to Members 99-09 and 99-54, Respondent Williams must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive;
4. The parties shall bear their respective costs, including attorneys' fees, except as Fees are specifically addressed below; and,
5. Any and all relief not specifically addressed herein is denied in its entirety.

### **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 firms that employed the associated person(s) at the time of the events giving rise to the dispute. Accordingly, Respondent Morgan Stanley is a party.

Member surcharge	= \$ 1,700.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$ 2,750.00
<b>Total Member Fees</b>	<b>= \$ 5,200.00</b>

#### **Forum Fees and Assessments**

The Panel has assessed forum fees for each session conducted. A 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:

One (1) Pre-hearing session with Panel @ \$ 1,125	= \$ 1,125.00
Pre-hearing conference: December 12, 2003 1 session	

Four (4) Hearing sessions @ \$ 1,125	= \$ 4,500.00
Hearing Dates: June 28, 2004 2 sessions	
June 29, 2004 2 sessions	

<b>Total Forum Fees</b>	<b>= \$ 5,625.00</b>
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The Panel has assessed \$ 5,625.00 of the forum fees to Respondent Morgan Stanley.

### **EEE SUMMARY**

1. Claimant, Stevens, is assessed and shall pay the following fees:

Initial Filing Fee	= \$ 300.00
Total Fees	= \$ 300.00
Less payments	= \$ 1,425.00
Refund owed to Claimant	= \$ 1,125.00

2. Respondent, Morgan Stanley, is assessed and shall pay the following fees:

Member Fees	= \$ 5,200.00
Forum Fees	= \$ 5,625.00
<b>Total Fees</b>	<b>= \$ 10,825.00</b>

Less payments	= \$ 5,200.00
Balance Due NASD Dispute Resolution	= \$ 5,625.00

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

**ARBITRATION PANEL**

George F. Adams, Esq.	-	Public Arbitrator, Presiding Chairperson
Henry H. Reichner, Jr.	-	Public Arbitrator, Panelist
Malcolm J. Irving	-	Non-Public Arbitrator, Panelist

Concurring Arbitrators' Signatures



George F. Adams, Esq.  
Public Arbitrator, Presiding Chairperson

7/2/04  
Signature Date

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Henry H. Reichner, Jr.  
Public Arbitrator, Panelist

\_\_\_\_\_  
Signature Date

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Malcolm J. Irving  
Non-Public Arbitrator, Panelist

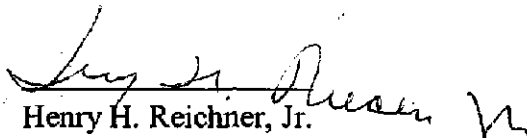
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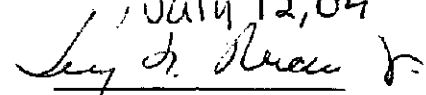
July 19, 2004  
Date of Service (For NASD Dispute Resolution office use only)

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George F. Adams, Esq.  
Public Arbitrator, Presiding Chairperson

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Signature Date

  
Henry H. Reichner, Jr.  
Public Arbitrator, Panelist

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Signature Date

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