

Stipulated Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Seymour Bossert and Seymour Bossert IRA (Claimants) v. Morgan Stanley DW, Inc., David Maldonado, and Jose Rivera (Respondents)

Case Number: 03-03376

Hearing Site: New York, New York

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

REPRESENTATION OF PARTIES

Claimant Seymour Bossert ("Bossert") and Seymour Bossert IRA ("Bossert IRA") 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"), David Maldonado ("Maldonado"), and Jose Rivera ("Rivera") hereinafter collectively referred to as "Respondents": David A. Picon, Esq., Proskauer Rose, LLP, New York, NY. Previously represented by: Howard Sendrovitz, Esq., Morgan Stanley DW, Inc., Morgan Stanley Law Division, New York, NY.

CASE INFORMATION

Statement of Claim filed on or about: May 7, 2003.

Claimant signed the Uniform Submission Agreement: May 1, 2003.

Joint Statement of Answer filed by Respondents on or about: August 22, 2003.

Respondent Maldonado signed the Uniform Submission Agreement: August 20, 2003.

Respondent Rivera signed the Uniform Submission Agreement: August 20, 2003.

Respondent MSDW did not sign the Uniform Submission Agreement.

CASE SUMMARY

Claimants asserted the following causes of action: unsuitability; failure to disclose risks; failure to supervise; negligence; gross negligence; misrepresentation; breach of contract; and respondeat superior. The causes of action relate to unspecified securities.

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

RELIEF REQUESTED

Claimants requested compensatory damages in the amount of \$600,000.00; punitive damages in the amount of \$200,000.00; interest at the statutory rate; costs; and disbursements.

Respondents requested dismissal of the Statement of Claim in its entirety; costs and expenses; an order expunging this matter from the Form U-4s of Respondents Maldonado and Rivera; and such other and further relief as is just and proper.

OTHER ISSUES CONSIDERED AND DECIDED

Respondent MSDW did not file with NASD Dispute Resolution a properly executed Uniform Submission Agreement but is required to submit to arbitration pursuant to the Code and, having answered the claim, is bound by the determination of the Panel on all issues submitted.

On or about July 28, 2004, Claimants notified NASD Dispute Resolution that they withdrew their claims against Respondents.

On or about July 29, 2004, the parties submitted a proposed Stipulated Award for the Panel's approval. This document is annexed hereto as Exhibit "A".

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

The parties entered into an agreement to present to the Panel a Stipulated Award. Now, in lieu of a hearing and upon motion of both parties for an entry of an award, the written stipulation thereto, the Panel grants the motion and enters this award granting the following relief:

1. Claimants' claims are dismissed in their entirety.
2. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent David Maldonado's 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 Maldonado must obtain confirmation from a court of competent jurisdiction before CRD will execute the expungement directive.
3. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Jose Rivera's 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 Rivera must obtain confirmation from a court of competent jurisdiction before CRD will execute the expungement directive.

4. Any and all relief not specifically addressed herein, including punitive damages, is denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Dispute Resolution, Inc. will retain or collect the non-refundable filing fees for each claim:

Initial claim filing fee	= \$375.00
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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 persons at the time of the events giving rise to the dispute. In this matter, Morgan Stanley DW, Inc. is a party.

Member Surcharge	= \$2,250.00
Pre-Hearing Process Fee	= \$ 750.00
<u>Hearing Process Fee</u>	<u>= \$4,000.00</u>
Total Member Fees	= \$7,000.00

Forum Fees and Assessments

The Panel assesses forum fees for each hearing session conducted. A hearing 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. Forum fees associated with these proceedings are:

One (1) Pre-hearing conference session with a single arbitrator @ \$450.00/session = \$ 450.00
Pre-hearing conference: April 23, 2004 1 session

One (1) Pre-hearing conference session with the Panel @ \$1,200.00/session	= \$1,200.00
Pre-hearing conference: January 9, 2004 1 session	
Total Forum Fees	= \$1,650.00

1. The Panel has assessed \$825.00 of the forum fees jointly and severally against Claimants.
2. The Panel has assessed \$825.00 of the forum fees jointly and severally against Respondents.

Fee Summary

1. Claimants are jointly and severally liable for:

Initial Filing Fee	= \$ 375.00
Forum Fees	= \$ 825.00
Total Fees	= \$1,200.00
Less payments	= \$1,575.00
Refund Due Claimants	= \$ 375.00

2. Respondent MSDW is solely liable for:

Member Fees	= \$7,000.00
Total Fees	= \$7,000.00
Less payments	= \$7,000.00
Balance Due NASD Dispute Resolution	= \$ 0.00

3. Respondents are jointly and severally liable for:


Forum Fees	= \$ 825.00
Total Fees	= \$ 825.00
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 825.00

All balances are due and payable to NASD Dispute Resolution

ARBITRATION PANEL

Joseph J. Arata, Esq.	-	Public Arbitrator, Presiding Chair
Jimmy H.C. Wang	-	Public Arbitrator
Earl S. Schwarz	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures



Joseph J. Arata, Esq.
Public Arbitrator, Presiding Chair

8-23-04

Signature Date

Jimmy H.C. Wang
Public Arbitrator

Signature Date

Earl S. Schwarz
Non-Public Arbitrator

Signature Date

August 26, 2004

Date of Service (For NASD office use only)

ARBITRATION PANEL

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Jimmy H.C. Wang	-	Public Arbitrator
Earl S. Schwarz	-	Non-Public Arbitrator

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Public Arbitrator

Signature Date

Earl S. Schwarz
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Signature Date

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Joseph J. Arata, Esq.
Public Arbitrator, Presiding Chair

Signature Date

Jimmy H.C. Wang
Public Arbitrator

Signature Date

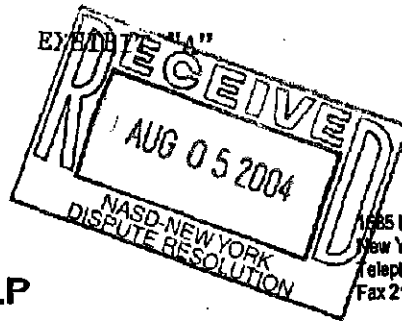


Earl S. Schwarz
Non-Public Arbitrator

8/20/04

Signature Date

August 26, 2004
Date of Service (For NASD office use only)



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Senior Counsel

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July 29, 2004

By Facsimile and Mail

Rachel D. Glasgow, Esq.
NASD Dispute Resolution
One Liberty Plaza
165 Broadway - 27th Floor
New York, NY 10006

Re: Seymour Bossert v. Morgan Stanley Dean Witter, David Maldonado
and Jose Rivera; NASD Arb. No. 03-03376

Dear Ms. Glasgow:

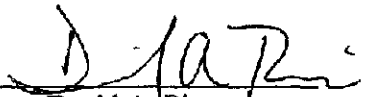
We represent Respondents Morgan Stanley Dean Witter, David Maldonado and Jose Rivera in the above-referenced matter. Pursuant to his letter of July 28, Claimant dismissed, with prejudice, all claims against Morgan Stanley, Mr. Maldonado and Mr. Rivera. Accordingly, the parties request that the Panel execute a stipulated award in the form attached with respect to Mr. Maldonado's and Mr. Rivera's Form U-4s.

The parties respectfully request that the Panel execute the attached stipulated award.

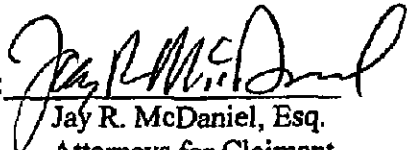
On behalf of all of the parties, thank you.

Respectfully yours,

By:


David A. Picon
Attorneys for Respondents
Proskauer Rose LLP
1585 Broadway
New York, New York 10036
212.969.3000

By:


Jay R. McDaniel, Esq.
Attorneys for Claimant
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Perence, LLP
1065 Avenue of the Americas
New York, NY 10018
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**ARBITRATION PROCEEDINGS IN AND BEFORE
THE NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.**

In the Matter of the Arbitration Between:

SEYMOUR BOSSERT,	X	
	:	
Claimant,	:	NASD ARBITRATION NO. 03-03376
	:	
v.	:	
	:	<u>STIPULATED AWARD</u>
MORGAN STANLEY DEAN WITTER,	:	
DAVID MALDONADO and JOSE RIVERA,	:	
	:	
Respondents.	:	
	:	
	X	

WHEREAS Claimant Seymour Bossert commenced an arbitration against Morgan Stanley DW, Inc., incorrectly sued as Morgan Stanley Dean Witter ("Morgan Stanley"), David Maldonado and Jose Rivera,

WHEREAS after discovery had been conducted Claimant, pursuant to a letter from his counsel dated July 17, 2004 withdrew his claims against Morgan Stanley, Mr. Maldonado and Mr. Rivera,

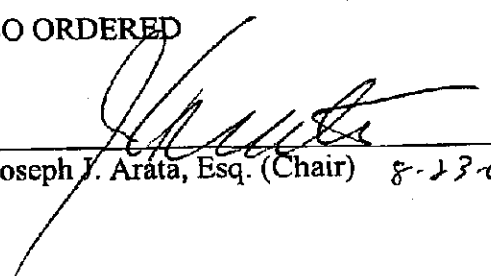
WHEREAS there has been no hearing or finding on the merits of the claims against Morgan Stanley, Mr. Maldonado or Mr. Rivera,

WHEREAS Respondents have not made any payment to Claimant.

NOW, IT IS HEREBY ORDERED that the CRD expunge that portion of Mr. Maldonado's and Mr. Rivera's respective U-4s that in any way pertain to the complaint or

arbitration brought by Claimant, Seymour Bossert, against Mr. Maldonado and Mr. Rivera because Claimant withdrew his claims against Mr. Maldonado and Mr. Rivera after the completion of discovery, which shows that the claims against Mr. Maldonado and Mr. Rivera lacked merit.

SO ORDERED



Joseph J. Arata, Esq. (Chair) 8-23-04


Earl S. Schwarz

Jimmy H. C. Wang

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SO ORDERED

Joseph J. Arata, Esq. (Chair)

Earl S. Schwarz



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