
Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Names of the Claimants

Jeanne Rae Elias
Linda Elias Thomas

Case Number: 03-03428

Name of the Respondent

Morgan Stanley DW, Inc. d/b/a Morgan Stanley

Hearing Site: Boca Raton, Florida

Nature of the Dispute: Customer vs. Member.

REPRESENTATION OF PARTIES

For Jeanne Rae Elias and Linda Elias Thomas, hereinafter collectively referred to as "Claimants": Jeffrey Sonn, Esq., Sonn & Erez, Fort Lauderdale, Florida.

For Morgan Stanley DW, Inc. d/b/a Morgan Stanley, hereinafter referred to as "Respondent": Todd A. Zuckerbrod, Esq., Greenberg Traurig, P.A., West Palm Beach, Florida.

CASE INFORMATION

Statement of Claim filed on or about: May 8, 2003.

Claimants signed the Uniform Submission Agreements: May 27, 2003.

Statement of Answer filed by Respondent on or about: July 18, 2003.

Respondent signed the Uniform Submission Agreement: October 17, 2003.

CASE SUMMARY

Claimants asserted the following causes of action: breach of fiduciary duty; negligence; negligent supervision; and, violation of the Florida Securities and Investor Protection Act. The causes of action relate to, among other things, the transfer of shares of the common stocks Sandisk Corp., Silicon Storage Tech, Inc. and Fisar Corp., and their related margin balances, into Claimants' account, as well as the purchase in Claimants' account of various technology stocks, including, but not limited to, the following: RF Micro Devices, Inc.; Digital Lightwave, Inc.; LSI Logic Corp.; Kana Communications, Inc.; and Avanex Corp.

Unless specifically admitted in its Answer, Respondent denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

Claimants requested compensatory damages in the amount of \$252,000.00, an unspecified amount of punitive damages, interest, costs, attorneys' fees and such other relief as deemed appropriate by the Panel.

Respondent requested that Claimants' claims be dismissed in their entirety.

OTHER ISSUES CONSIDERED AND DECIDED

At the outset of the evidentiary hearings, Respondent asserted a Motion to Dismiss and a Motion to Assert Third Party Claim, both of which were denied by the Panel.

During the evidentiary hearings, the parties respectively requested that the Panel deem various documents confidential. The Panel ruled that all documents utilized in preparation of and during these proceedings shall remain confidential, and may only be used by the parties and their counsel in connection with these proceedings.

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, 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:

Respondent is liable for the tortuous act of non-compliance of documentation and shall pay to Claimants compensatory damages in the amount of \$603.24, plus interest at the Florida legal rate from May 1, 2000, until the Award is paid in full.

Respondent is liable and shall reimburse Claimants the sum of \$300.00, representing the non-refundable filing fee paid by Claimants to NASD Dispute Resolution.

Respondent is liable and shall reimburse Claimants the sum of \$4,232.94, representing costs incurred by Claimants in connection with this arbitration proceeding.

Each party shall bear their own attorneys' fees.

Any and all claims for relief not specifically addressed herein, including Claimants' claims for relief pursuant to the Florida Securities and Investor Protection Act and Claimants' request for punitive damages, are denied.

FEES

Pursuant to the NASD Code of Arbitration Procedure (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

Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute. Accordingly, Respondent is a member firm and a party.

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

Adjournment Fees

No adjournments were requested in this matter.

Three-Day Cancellation Fees

Fees apply when a hearing on the merits is postponed or settled within three business days before the start of a scheduled hearing session.

No three-day cancellation fees were assessed in this matter.

Injunctive Relief Fees

Injunctive relief fees are assessed to each member or associated person who files for a temporary injunction in court. Parties in these cases are also assessed arbitrator travel expenses and costs when an arbitrator is required to travel outside his or her hearing location and additional arbitrator honoraria for the hearing for permanent injunction. These fees, except the injunctive relief surcharge, are assessed equally against each party unless otherwise directed by the Panel.

Injunctive relief fees were not assessed in this matter.

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 the Panel @ \$1,125.00/session	= \$ 1,125.00
Pre-hearing conference: January 15, 2004 1 session	

Three (3) Pre-hearing sessions with a single arbitrator @ \$450.00/session	= \$ 1,350.00
Pre-hearing conferences: October 4, 2004 2 session	
November 22, 2004 1 session	

Ten (10) Hearing sessions @ \$1,125.00/session	= \$11,250.00
Hearing Dates: November 30, 2004 2 sessions	
December 1, 2004 3 sessions	
December 2, 2004 3 sessions	
December 3, 2004 2 sessions	

Total Forum Fees = \$13,725.00

The Panel has assessed the total forum fees of \$13,725.00 to Respondent.

Administrative Costs

Administrative costs are expenses incurred due to a request by a party for special services beyond the normal administrative services. These include, but not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

There were no administrative costs incurred in this matter.

Fee Summary

Claimants are jointly and severally liable for:

<u>Initial Filing Fee</u>	= \$ 300.00
<u>Total Fees</u>	= \$ 300.00
<u>Less Payments</u>	= \$ 300.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondent is solely liable for:

<u>Member Fees</u>	= \$ 5,200.00
<u>Forum Fees</u>	= \$13,725.00
<u>Total Fees</u>	= \$18,925.00
<u>Less Payments</u>	= \$ 7,950.00
Balance Due NASD Dispute Resolution	= \$10,975.00

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

ARBITRATION PANEL

Roy B. Gonas, Esq.	-	Public Arbitrator, Presiding Chairperson
Alvin Shulklapper	-	Public Arbitrator
Dale Berman	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

_____/s/_____
Roy B. Gonas, Esq.
Public Arbitrator, Presiding Chairperson

December 9, 2004
Signature Date

/s/
Alvin Shulklapper
Public Arbitrator

December 10, 2004
Signature Date

/s/
Dale Berman
Non-Public Arbitrator

December 13, 2004
Signature Date

December 14, 2004
Date of Service (For NASD Dispute Resolution office use only)

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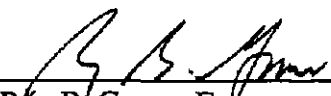
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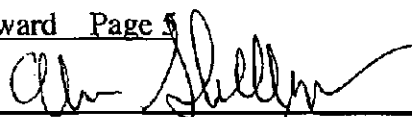

Roy B. Gonas, Esq.
Public Arbitrator, Presiding Chairperson


Signature Date

NASD Dispute Resolution

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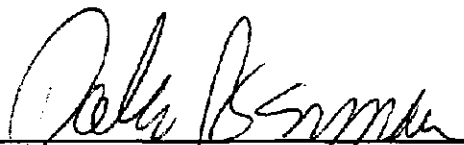


Alvin Shulklapper

Public Arbitrator

12/10/04

Signature Date



Dale Berman

Non-Public Arbitrator

12/13/04

Signature Date

Date of Service (For NASD Dispute Resolution office use only)