

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

George Sinel and Bonnie Sinel (Claimants) v. Morgan Stanley DW, Inc. and Jason Mininger (Respondents)

Case Number: 03-03597

Hearing Site: New York, New York

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

REPRESENTATION OF PARTIES

Claimants George Sinel ("G. Sinel") and Bonnie Sinel ("B. Sinel") hereinafter referred to as "Claimants": Wayne M. Josel, Esq., Kaufmann, Feiner, Yamin, Gildin & Robbin, New York, NY. Previously represented by Sheldon H. Gopstein, Esq., New York, NY.

Respondents Morgan Stanley DW, Inc. ("Morgan Stanley") and Jason Mininger ("Mininger"), hereinafter collectively referred to as "Respondents": Howard M. Sendrovitz, Esq., Morgan Stanley DW, Inc., Purchase, NY.

CASE INFORMATION

Statement of Claim filed on or about: May 15, 2003.

G. Sinel signed the Uniform Submission Agreement: April 30, 2003.

B. Sinel signed the Uniform Submission Agreement: April 30, 2003.

Joint Statement of Answer filed by Respondents on or about: August 6, 2003.

Respondent Morgan Stanley did not sign the Uniform Submission Agreement.

Respondent Mininger did not sign the Uniform Submission Agreement.

CASE SUMMARY

Claimants asserted the following causes of action: breach of fiduciary duty; negligence; breach of contract; respondeat superior; apparent authority; and failure to supervise. The causes of action relate to technology stocks including Lucent, Intel, AOL Time Warner and Cisco.

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

RELIEF REQUESTED

Claimants requested compensatory damages in the amount of \$733,361.77; plus commissions; interest; NASD fees; attorneys' fees and costs; and such other and further relief as may be just, proper and equitable.

Respondents requested that the Panel dismiss the Statement of Claim in its entirety; award Respondents the costs and expenses of this arbitration; order the expungement of this matter from the CRD of Respondent Mininger; and award Respondents such other and further relief as is just and proper.

OTHER ISSUES CONSIDERED AND DECIDED

Respondents Morgan Stanley and Mininger did not file with NASD Dispute Resolution properly executed Uniform Submission Agreements but are required to submit to arbitration pursuant to the Code and, having answered the claim, appeared and testified at the hearing, are 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. Respondents are jointly and severally liable and shall pay to Claimants compensatory damages in the amount of \$14,795.62.
2. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Jason Mininger'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 Mininger must obtain confirmation from a court of competent jurisdiction before CRD will execute the expungement directive.
3. The Panel denied Claimant's request for attorneys' fees.
4. Any and all relief not specifically addressed herein is denied.

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 = \$ 375.00

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 person at the time of the events giving rise to the dispute. Accordingly, Morgan Stanley DW, Inc. is a party.

Member surcharge = \$ 2,250.00

Pre-hearing process fee = \$ 750.00

Hearing process fee = \$ 4,000.00

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

July 29, 30; September 10, 2004, adjournment by Claimants = Waived

April 20, 21, 22, 2005, adjournment by Claimants = Waived

Forum Fees and Assessments

The Panel has assessed forum fees for each session conducted. A 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. Fees associated with these proceedings are:

Three (3) Pre-hearing sessions with Panel @ \$1,200.00 per session = \$ 3,600.00

Pre-hearing conferences: December 22, 2003 1 session
 April 20, 2005 1 session
 October 17, 2005 1 session

Six (6) Hearing sessions @ \$1,200.00 per session = \$ 7,200.00

Hearing Dates: September 14, 2005 2 sessions
 September 15, 2005 2 sessions
 January 19, 2006 2 sessions

Total Forum Fees = \$ 10,800.00

1. The Panel has assessed \$10,800.00 of the forum fees jointly and severally to Respondents.

Fee Summary

1. Claimants are solely liable for:

Initial Filing Fee = \$ 375.00

Total Fees = \$ 375.00

Less payments = \$ 1,575.00

Refund Due Claimant = \$ 1,200.00

2. Respondent Morgan Stanley is solely liable for:

Member Fees = \$ 7,000.00

Total Fees	= \$ 7,000.00
<u>Less payments</u>	<u>= \$ 7,000.00</u>
Balance Due NASD Dispute Resolution	= \$ 0.00

4. Respondents are jointly and severally liable for:

Forum Fees	= \$10,800.00
Total Fees	= \$ 10,800.00
<u>Less payments</u>	<u>= \$ 0.00</u>
Balance Due NASD Dispute Resolution	= \$ 10,800.00

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

ARBITRATION PANEL

Charles L. Prothero, III, Esq.	-	Public Arbitrator, Presiding Chairperson
Joan Ilivicky	-	Public Arbitrator
Donald Raymond McNally	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

I, the undersigned arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument, which is my award.



Charles L. Prothero, III, Esq.
Public Arbitrator, Presiding Chairperson

3/10/06
Signature Date

Joan Ilivicky
Public Arbitrator

Signature Date

Donald Raymond McNally
Non-Public Arbitrator

Signature Date

March 21, 2006

Date of Service (For NASD Dispute Resolution use only)

ARBITRATION PANEL

Charles L. Prothero, III, Esq.

Public Arbitrator, Presiding Chairperson

Joan Ilivicky

Public Arbitrator

Donald Raymond McNally

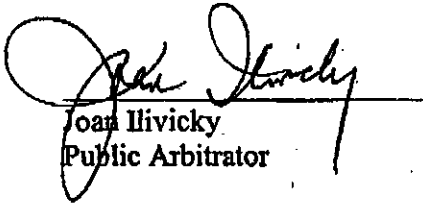
Non-Public Arbitrator

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Charles L. Prothero, III, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date


Joan Ilivicky
Public Arbitrator

March 17, 2006
Signature Date

Donald Raymond McNally
Non-Public Arbitrator

Signature Date

March 21, 2006

Date of Service (For NASD Dispute Resolution use only)

ARBITRATION PANEL

Charles L. Prothero, III, Esq.	-	Public Arbitrator, Presiding Chairperson
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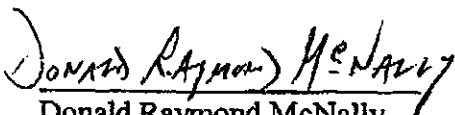
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Charles L. Prothero, III, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

Joan Ilivicky
Public Arbitrator

Signature Date



Donald Raymond McNally
Non-Public Arbitrator



Signature Date

March 21, 2006

Date of Service (For NASD Dispute Resolution use only)