

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimant
Richard S. Doyle

Case Number: 03-03649

Name of the Respondent
Morgan Stanley DW Inc.

Hearing Site: Boca Raton, Florida

Nature of the Dispute: Customer vs. Member.

REPRESENTATION OF PARTIES

For Richard S. Doyle ("Doyle"), hereinafter referred to as "Claimant": Robert Wayne Pearce, Esq., Robert Wayne Pearce, P.A., Boca Raton, Florida.

For Morgan Stanley DW Inc. ("MSDW"), hereinafter referred to as "Respondent": R. Lawrence Bonner, Homer & Bonner, P.A., Miami, Florida.

CASE INFORMATION

Statement of Claim filed on or about: May 16, 2003.

Claimant signed the Uniform Submission Agreement: May 12, 2003.

Statement of Answer filed by Respondent on or about: August 5, 2003.

Respondent signed the Uniform Submission Agreement: August 5, 2003.

CASE SUMMARY

Claimant asserted the following causes of action: 1) common law fraud and negligent misrepresentation; 2) breach of fiduciary duty; 3) negligence; and 4) breach of contract. The causes of action relate to transactions in unspecified junk bonds and junk bond mutual funds.

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

RELIEF REQUESTED

Claimant requested compensatory damages and lost profits of \$500,000.00, plus pre-judgment interest at the legal rate, punitive damages, the costs of this proceeding and such other relief as is deemed just and proper.

Respondent requested that all claims against it be dismissed, that all references to this dispute be expunged from Respondent's registration records maintained by the NASD Central Registration Depository ("CRD") and that judgment be awarded in favor of Respondent. In addition, Respondent stated that it was not waiving its right to a ruling by a court of

competent jurisdiction on an award of fees and expenses, including reasonable attorney's fees.

OTHER ISSUES CONSIDERED AND DECIDED

The parties have agreed that the Award in this matter may be executed in counterpart copies.

AWARD

After considering the pleadings, the testimony and evidence presented at the hearing, and the post-hearing submissions (if any), the undersigned arbitrators (the "Panel") have decided in full and final resolution of the issues submitted for determination as follows:

1. Respondent is liable on the claim of breach of fiduciary duty and shall pay to Claimant the sum of \$109,740.00 in compensatory damages, pre-judgment interest specifically excluded.
2. Respondent is liable and shall pay to Claimant the sum of \$300.00 representing reimbursement of the claim filing fee previously paid by Claimant to NASD Dispute Resolution.
3. Any and all claims for relief not specifically addressed herein, including Respondent's request for attorney's fees, 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
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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. Accordingly, Respondent MSDW is a member firm and a party.

Member surcharge	= \$1,700.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$2,750.00

Adjournment Fees

No adjournments were granted during these proceedings for which fees were assessed.

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.

No injunctive relief fees were incurred during these proceedings.

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:

One (1) Pre-hearing session with a single arbitrator @ \$450.00	= \$ 450.00
Pre-hearing conference: May 4, 2004	1 session
One (1) Pre-hearing session with the Panel @ \$1,125.00	= \$1,125.00
Pre-hearing conference: December 4, 2003	1 session
Six (6) Hearing sessions with the Panel @ \$1,125.00	= \$6,750.00
Hearing Dates: May 18, 2004	2 sessions
May 19, 2004	2 sessions
May 20, 2004	2 sessions
Total Forum Fees	= \$8,325.00

The Panel has assessed the total forum fees of \$8,325.00 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.

No administrative cost were incurred during these proceedings.

Fee Summary

Claimant is solely liable for:

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

Respondent is solely liable for:

Member Fees	= \$ 5,200.00
<u>Forum Fees</u>	= \$ 8,325.00
Total Fees	= \$13,525.00

<u>Less payments</u>	<u>= \$ 5,200.00</u>
Balance Due NASD Dispute Resolution	= \$ 8,325.00

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

ARBITRATION PANEL

<i>Carl Shechter, Esq.</i>	-	<i>Public Arbitrator, Presiding Chairperson</i>
<i>Frank Nussbaum, Esq.</i>	-	<i>Public Arbitrator</i>
<i>Dale Berman</i>	-	<i>Non-Public Arbitrator</i>

Concurring Arbitrators' Signatures

/s/
Carl Shechter, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

/s/
Frank Nussbaum, Esq.
Public Arbitrator

Signature Date

/s/
Dale Berman
Non-Public Arbitrator

Signature Date

June 2, 2004
Date of Service (For NASD Dispute Resolution office use only)


<u>Less payments</u>	<u>= \$ 5,200.00</u>
Balance Due NASD Dispute Resolution	= \$ 8,325.00

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<i>Frank Nussbaum, Esq.</i>	-	<i>Public Arbitrator</i>
<i>Dale Berman</i>	-	<i>Non-Public Arbitrator</i>

Concurring Arbitrators' Signatures



Carl Shechter, Esq.
Public Arbitrator, Presiding Chairperson

5/30/04

Signature Date

Frank Nussbaum, Esq.
Public Arbitrator

Signature Date

Dale Berman
Non-Public Arbitrator

Signature Date

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

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<i>Dale Berman</i>	-	<i>Non-Public Arbitrator</i>

Concurring Arbitrators' Signatures

Carl Shechter, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date



Frank Nussbaum, Esq.
Public Arbitrator

May 31, 2004

Signature Date

Dale Berman
Non-Public Arbitrator

Signature Date

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

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<i>Dale Berman</i>	-	<i>Non-Public Arbitrator</i>

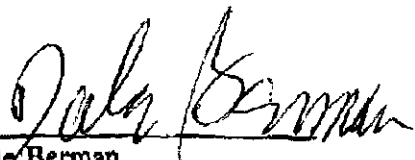
Concurring Arbitrators' Signatures

Carl Shechter, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

Frank Nussbaum, Esq.
Public Arbitrator

Signature Date



Dale Berman
Non-Public Arbitrator

5/28/04
Signature Date

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