

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimant
Marston V. Hilton

Case Number: 03-04180

Names of the Respondents
Morgan Stanley DW, Inc.
Betsy B. Serafin
Robert Edward Fonorow

Hearing Site: Raleigh, NC

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

REPRESENTATION OF PARTIES

Claimant, Marston V. Hilton, hereinafter referred to as "Claimant", was represented by Mathew E. Bates, Esq., Attorney at Law, Greensboro, North Carolina.

Respondents, Morgan Stanley DW, Inc. ("Morgan Stanley"), Betsy B. Serafin ("Serafin") and Robert Edward Fonorow ("Fonorow"), hereinafter collectively referred to as "Respondents", were represented by Justin V. Shur, Esq. and Steven G. Kobre, Esq., Kobre & Kim, LLP, New York, New York.

CASE INFORMATION

Statement of Claim filed on June 10, 2003.

Claimant signed the Uniform Submission Agreement on June 4, 2003.

Statement of Answer filed by Respondents on August 7, 2003.

Respondents did not file Uniform Submission Agreements with NASD Dispute Resolution.

CASE SUMMARY

In their Statement of Claim, Claimant asserted the following causes of action, among others: suitability, *respondeat superior*, violation of Section 20 of Securities Exchange Act of 1934 failure to supervise, fraud, misrepresentation, and breach of fiduciary duty. The causes of action relate to the purchase and sale of various specified securities.

Unless specifically admitted in their Statement of Answer, Respondents denied the allegations made in the Statement of Claim and asserted the following defenses, among others: failure to state a claim upon which relief may be granted, Claimant's claims are barred by the doctrine of estoppel, authorization, ratification, and failure to mitigate damages.

RELIEF REQUESTED

Claimant in his Statement of Claim requested:

Compensatory Damages	\$ 159,465.89
Punitive Damages	amount unspecified
Interest	amount unspecified
Attorney's Fees	amount unspecified
Other Costs	amount unspecified

Respondents requested that the Statement of Claim be dismissed and that they be awarded costs.

OTHER ISSUES CONSIDERED AND DECIDED

Respondents 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 Arbitration Panel (the "Panel") on all issues submitted.

At the hearing on the merits, Respondents made a motion to dismiss, which the Panel denied.

At the hearing on the merits, Respondents Serafin and Fonorow requested that the Panel order the expungement of all reference to this matter from Respondent Serafin and Fonorow's Central Registration Depository ("CRD") record.

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:

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

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, Respondent Morgan Stanley is a party.

Member surcharge = \$ 1,700.00

Pre-hearing process fee = \$ 750.00

Hearing process fee = \$ 2,750.00

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 @ \$ 1,125.00 = \$ 1,125.00

Pre-hearing conference: December 23, 2003 1 session

Five (5) Hearing sessions @ \$ 1,125.00 = \$ 5,625.00

Hearing Dates: October 19, 2004 2 sessions

October 20, 2004 2 sessions

October 21, 2004 1 session

Total Forum Fees = \$ 6,750.00

The Panel has assessed \$ 6,750.00 of the forum fees to Claimant.

Fee Summary

1. Claimant is assessed and shall pay:

Initial Filing Fee = \$ 300.00

Forum Fees = \$ 6,750.00

Total Fees = \$ 7,050.00

Less payments = \$ 1,425.00

Balance Due NASD Dispute Resolution = \$ 5,625.00

2. Respondent Morgan Stanley is assessed and shall pay:

Member Fees = \$ 5,200.00

Total Fees = \$ 5,200.00

Less payments	= \$	5,200.00
Balance Due NASD Dispute Resolution	= \$	0.00

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

ARBITRATION PANEL

Chase Boone Saunders, Esq.	-	Public Arbitrator, Presiding Chairperson
Charles Diederich Heidgerd, JD	-	Public Arbitrator, Panelist
Daniel W. Desmond, VP	-	Non-Public Arbitrator, Panelist

Concurring Arbitrators' Signatures



Chase Boone Saunders
Public Arbitrator, Presiding Chairperson



Signature Date

Charles Diederich Heidgerd, JD
Public Arbitrator, Panelist

Signature Date

Daniel W. Desmond, VP
Non-Public Arbitrator, Panelist

Signature Date



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

Concurring Arbitrators' Signatures

Chase Boone Saunders
Public Arbitrator, Presiding Chairperson

Signature Date


Charles Diederich Heidgerd, JD
Public Arbitrator, Panelist

10/22/04
Signature Date:

Daniel W. Desmond, VP
Non-Public Arbitrator, Panelist

Signature Date:

October 26, 2004
Date of Service (For NASD Dispute Resolution office use only)


Concurring Arbitrators' Signatures

Chase Boone Saunders
Public Arbitrator, Presiding Chairperson

Signature Date:

Charles Diederich Heidgerd, JD
Public Arbitrator, Panelist

Signature Date:


Daniel W. Desmond, VP
Non-Public Arbitrator, Panelist

10/22/04
Signature Date:

October 26, 2004
Date of Service (For NASD Dispute Resolution office use only)