

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Young Jun Yang, Claimant v. Morgan Stanley DW Inc. and Gapsik Choo, Respondents

Case Number: 03-04429

Hearing Site: Los Angeles, California

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

REPRESENTATION OF PARTIES

For Claimant:

Marc I. Zussman, Esq.
Law Offices of Marc I. Zussman
Los Angeles, California

For Respondents:

Ronald E. Wood, Esq.
Christine Pham, Esq.
Morgan Stanley DW Inc.
Los Angeles, California

CASE INFORMATION

Statement of Claim filed: June 17, 2003

Claimant's Uniform Submission Agreement signed: June 13, 2003

Joint Statement of Answer filed by Respondents: August 13, 2003

Respondent Morgan Stanley DW Inc.'s Uniform Submission Agreement signed:
August 13, 2003

Respondent Gapsik Choo's Uniform Submission Agreement signed: August 13, 2003

CASE SUMMARY

Claimant alleged breach of fiduciary duty, unsuitability, fraud, negligent misrepresentations, breach of contract, failure to supervise, and violations of NASD conduct rules, NYSE rules, and federal and state securities laws. Claimant's claims involved various technology stocks and technology-oriented mutual funds.

Respondents denied the allegations of wrongdoing set forth in the Claimant's Statement of Claim.

RELIEF REQUESTED

Claimant requested \$267,718.92 in compensatory damages, unspecified punitive damages, pre- and post judgment interest at the highest legal rate, lost opportunity costs, all profits generated from Claimant's account, and costs, including attorney's fees.

Respondents requested dismissal of the Claimant's Statement of Claim in its entirety.

OTHER ISSUES CONSIDERED AND DECIDED

On August 29, 2003, Claimant and Claimant's counsel signed a Waiver Agreement expressly waiving any and all rights and benefits under California Civil Code Section 1542 and the California Ethical Standards for Neutral Arbitrators.

Pursuant to the Code of Arbitration Procedure IM-10100, the waiver of the Claimant shall constitute and operate as a waiver for all member firms and associated persons (including terminated or otherwise inactive member firms or associated persons) against whom the Claim has been filed.

On June 7, 2004, Respondents filed a petition for reconsideration of the Chair's Order regarding Respondents' Second Motion to Compel. Claimant filed an opposition to the petition on June 21, 2004 and included a motion requesting sanctions for attorney's fees incurred in opposing Respondents' petition and an amount to penalize Respondents' conduct. On June 23, 2004, Respondents filed a reply in support of their petition for reconsideration.

On June 8, 2004, Claimant filed a motion to quash subpoenas duces tecum and a motion for sanctions against Respondent Morgan Stanley DW Inc. and Ronald E. Wood. Respondents filed an opposition to Claimant's combined motion to quash and motion for sanctions on June 18, 2004. On June 21, 2004, Claimant filed a reply in support of the motion to quash, and Respondents filed a sur-reply on June 22, 2004. Claimant filed a further sur-reply in support of the motion to quash on June 23, 2004.

On July 6, 2004, the Panel held a telephonic deliberation regarding the discovery motions filed by the parties. The Panel issued an Order on July 6, 2004 granting, among other things, Claimant's motion for sanctions. The motion was granted in part (as to attorney's fees) and denied in part (as to penalty). Counsel for Claimant was instructed to submit a declaration to the Panel outlining the attorney's fees incurred. The Panel held another telephonic deliberation on July 16, 2004, and issued an Order on July 19, 2004 awarding sanctions jointly and severally against Respondent Morgan Stanley DW Inc. and Respondents' counsel, Ronald E. Wood, Esq., in the amount of \$7,125.00 for attorney's fees.

On August 3, 2004, Respondents filed a motion for reconsideration of the sanction order, requesting that the Panel impose sanctions solely on Respondent Morgan Stanley DW Inc. On August 4, 2004, Claimant filed a response to the motion for reconsideration indicating that they had no objection to the imposition of sanctions solely against Respondent Morgan Stanley DW Inc. On August 13, 2004, the Panel ruled that sanctions will apply only as to Respondent Morgan Stanley DW Inc.

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, testimony, and evidence presented at the hearing, the Panel decided in full and final resolution of the issues submitted for determination as follows:

- 1) Respondents are jointly and severally liable to and shall pay Claimant the sum of \$57,000.00 in compensatory damages.
- 2) The parties shall bear their respective costs, including attorney's fees.
- 3) All other relief requested and not expressly granted is denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Dispute Resolution received or will collect the non-refundable filing fees for each claim as follows:

Initial claim filing fee	= \$ 300.00
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Member Fees

Member fees are assessed to each member firm that is either a party in the matter or an employer of a respondent associated person at the time of the events that gave rise to the dispute, claim, or controversy. Accordingly, the member firm Morgan Stanley DW Inc. is a party and the following fees are assessed:

Member Surcharge	= \$ 1,700.00
Pre-Hearing Process Fee	= \$ 750.00
Hearing Process Fee	= \$ 2,750.00
Total Member Fees	= \$ 5,200.00

Adjournment Fees

The following adjournment fees are assessed:

July 19-23, 2004 adjournment requested by Claimant = \$ 1,125.00

1. The Panel assessed \$562.50 of the postponement fees to Claimant.
2. The Panel assessed \$562.50 of the postponement fees jointly and severally to Respondents.

Forum Fees and Assessments

The Panel assessed a forum fee for each pre-hearing conference or hearing session conducted. A pre-hearing conference and hearing session is any meeting between the parties and the Chair/Panel. The following fees are assessed:

1 Pre-hearing conference session with a single arbitrator @ \$ 450.00/session = \$ 450.00
Pre-hearing conference: April 21, 2004 1 session

1 Pre-hearing conference session with the Panel @ \$1,125.00/session = \$ 1,125.00
Pre-hearing conference: December 1, 2003 1 session

14 Hearing sessions @ \$1,125.00/session = \$15,750.00
Hearings: August 24, 2004 2 sessions
August 25, 2004 2 sessions
August 26, 2004 2 sessions
August 27, 2004 2 sessions
September 13, 2004 2 sessions
September 14, 2004 2 sessions
September 15, 2004 2 sessions

Total Forum Fees = \$17,325.00

1. The Panel assessed \$ 8,662.50 of the forum fees to Claimant.
2. The Panel assessed \$ 8,662.50 of the forum fees jointly and severally to Respondents.

Administrative Costs

Administrative costs are expenses incurred because a party requested additional services beyond the normal administrative services. These additional services include, but are not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, security, and sundry other requests.

Respondent requested copies of 7 audio transcripts @ \$15.00 each:	= \$ 105.00
Claimant requested copies of 5 audio transcripts @ \$15.00 each:	= \$ 75.00

Fee Summary

1. Claimant is charged with the following fees and costs:

Initial Filing Fee	= \$ 300.00
Adjournment Fee	= \$ 562.50
Forum Fees	= \$ 8,662.50
<u>Administrative Costs</u>	<u>= \$ 75.00</u>
Total Fees	= \$ 9,600.00
<u>Less payments</u>	<u>= \$(1,560.00)</u>
Balance Due NASD Dispute Resolution	= \$ 8,040.00

2. Respondent Morgan Stanley DW Inc. is charged with the following fees and costs:

Member Fees	= \$ 5,200.00
<u>Administrative Costs</u>	<u>= \$ 105.00</u>
Total Fees	= \$ 5,305.00
<u>Less payments</u>	<u>= \$(5,305.00)</u>
Balance Due NASD Dispute Resolution	= \$ 0.00

3. Respondents are charged jointly and severally with the following fees and costs:

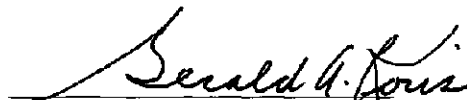
Adjournment Fee	= \$ 562.50
<u>Forum Fees</u>	<u>= \$ 8,662.50</u>
Total Fees	= \$ 9,225.00
<u>Less payments</u>	<u>= \$(0.00)</u>
Balance Due NASD Dispute Resolution	= \$ 9,225.00

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

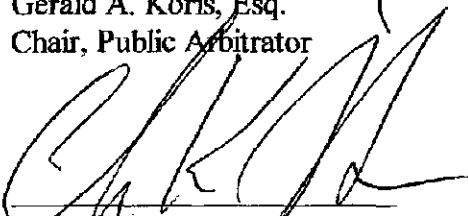
ARBITRATION PANEL

Gerald A. Koris, Esq.	-	Public Arbitrator, Presiding Chair
Charles K. Mills, Esq.	-	Public Arbitrator
David Harris	-	Non-Public Arbitrator

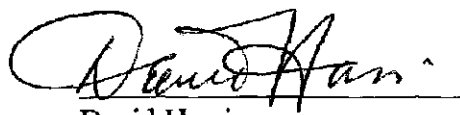
Concurring Arbitrators' Signatures


Gerald A. Koris, Esq.
Chair, Public Arbitrator

9-23-04
Signature Date


Charles K. Mills, Esq.
Public Arbitrator

9/23/04
Signature Date


David Harris
Non-Public Arbitrator

9/23/04
Signature Date

9/23/04
Date of Service