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**Stipulated Award**  
**NASD Dispute Resolution**

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In the Matter of the Arbitration Between:

Names of the Claimants

Kay Lee  
Kay Lee IRA

Case Number: 03-04529

Names of the Respondents

Morgan Stanley DW Inc.  
Paula Buchanan

Hearing Site: Atlanta, Georgia

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

**REPRESENTATION OF PARTIES**

For Kay Lee and Kay Lee IRA, hereinafter referred to as "Claimants": James G. Killough, Esq., Atlanta, Georgia.

For Respondent Morgan Stanley DW Inc. ("MSDW"): James A. Murphy, Esq., LeClair Ryan, Richmond, Virginia.

For Respondent Paula Buchanan ("Buchanan"): Mark A. Nebrig, Esq., Moore & VanAllen, Charlotte, North Carolina.

**CASE INFORMATION**

Statement of Claim filed on or about: June 23, 2003.

Claimants signed the Uniform Submission Agreement: June 17, 2003.

Statement of Answer filed by Respondent MSDW on or about: August 22, 2003.

Statement of Answer filed by Respondent Buchanan on or about: August 19, 2003.

Respondent MSDW signed the Uniform Submission Agreement: August 27, 2003.

Respondent Buchanan signed the Uniform Submission Agreement: August 22, 2003.

**CASE SUMMARY**

Claimants asserted the following causes of action: 1) breach of contract 2) negligence; 3) negligent and intentional misrepresentation of facts and omissions to disclose or state material facts; 4) breach of fiduciary duty; 5) unsuitability; and, 6) excessive and unauthorized trading. The causes of action relate to the purchase of various stocks and mutual funds, including but not limited to, Healthcon Corp., Copper Mountain, Van Kampen Growth Fund B, Morgan Stanley Technology Fund B, Oracle Corp., Applied Materials and Cisco Corp. in Claimants' account.

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 \$473,320.00, interest, attorney's fees, forum, witness and production fees and costs.

Respondent MSDW requested that the Statement of Claim be dismissed in its entirety and an award of costs and expenses and such other and further relief as this Panel deemed just and proper.

Respondent Buchanan did not delineate a relief request.

### **OTHER ISSUES CONSIDERED AND DECIDED**

On or about April 17, 2006, the parties notified NASD Dispute Resolution that they had settled this matter.

On or about April 21, 2006, the parties submitted to NASD Dispute Resolution a joint motion for a *Stipulated Award with a request for expungement of the Central Registration Depository (the "CRD")* record of Respondent Buchanan.

On May 16, 2006, the Panel issued an Order that granted the Motion for a Stipulated Award with request for expungement of the NASD CRD record of Respondent Buchanan.

The parties have agreed that the Stipulated Award in this matter may be entered in counterpart copies or that a signed handwritten Stipulated Award may be entered.

### **AWARD**

The parties entered into an agreement to present to the Panel a Stipulated Award. Now, in lieu of a hearing and upon motion of both parties for an entry of an award, the written stipulation thereto, the Panel grants the motion and enters this award granting the following relief:

All claims of Claimants are hereby dismissed, with prejudice.

The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Buchanan's registration records maintained by the NASD CRD, with the understanding that pursuant to NASD Notices to Members 99-09 and 99-54, Respondent Buchanan must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

Any and all claims for relief not specifically addressed herein, including Claimants' 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

#### **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 MSDW is a party to this dispute and was a member of NASD at the time the following fees were assessed:

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 requests for adjournments were filed in this matter for which fees were assessed.

#### **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 cancellation fees were assessed in this matter.

#### **Injunctive Relief Fees**

No injunctive relief fees were incurred during this proceeding.

#### **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:

Two (2) Pre-hearing sessions with the Panel @ \$1,125.00	= \$2,250.00
Pre-hearing conferences:	
January 13, 2004	1 session
November 16, 2004	1 session
<u>Total Forum Fees</u>	<u>= \$2,250.00</u>

The Panel has assessed \$1,125.00 of the forum fees jointly and severally to Claimants  
The Panel has assessed \$1,125.00 of the forum fees jointly and severally to Respondents.

**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 costs were incurred during this proceeding.

**Fee Summary**

Claimants are jointly and severally liable for:

Initial Filing Fee	= \$ 300.00
Forum Fees	= \$ 1,125.00
Total Fees	= \$ 1,425.00
Less payments	= \$ 1,425.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondent MSDW is solely liable for:

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

Respondents are jointly and severally liable for:

Forum Fees	= \$ 1,125.00
Total Fees	= \$ 1,125.00
Less payments	= \$ 1,125.00
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**

James J. Dalton, II, Esq.	-	Public Arbitrator, Presiding Chairperson
Harriet H. Harris, Esq.	-	Public Arbitrator
Thomas Scott Watkins	-	Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

\_\_\_\_\_/s/  
James J. Dalton, II, Esq.  
Public Arbitrator, Presiding Chairperson

05/18/06  
\_\_\_\_\_  
Signature Date

/s/  
Harriet H. Harris, Esq.  
Public Arbitrator

05/18/06  
Signature Date

/s/  
Thomas Scott Watkins  
Non-Public Arbitrator

05/18/06  
Signature Date

05/19/06  
Date of Service (For NASD Dispute Resolution office use only)

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Harriet H. Harris, Esq.	-	Public Arbitrator
Thomas Scott Watkins	-	Non-Public Arbitrator

**Concurring Arbitrators' Signatures**



James J. Dalton, II, Esq.  
Public Arbitrator, Presiding Chairperson

18 May 2006  
Signature Date

Harriet H. Harris  
Harriet H. Harris, Esq.  
Public Arbitrator

5-18-06  
Signature Date

**Thomas Scott Watkins**  
Non-Public Arbitrator

**Signature Date**

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

May. 18. 2006 8:33AM


NASD Dispute Resolution

Arbitration No.03-04529

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Harriet H. Harris, Esq.  
Public Arbitrator

Signature Date



Thomas Scott Watkins  
Non-Public Arbitrator

5-18-06

Signature Date

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