

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Dr. Jack Giannola DDS PC Employee Pension FD U/A 07/01/76 (Claimant) v. Morgan Stanley DW, Inc. (Respondent)

Case Number: 03-04665

Hearing Site: New York, New York

Nature of the Dispute: Customer vs. Member.

REPRESENTATION OF PARTIES

Claimant Dr. Jack Giannola DDS PC Employee Pension FD U/A 07/01/76 hereinafter referred to as "Claimant": Howard B. Sirota, Esq., Sirota & Sirota, LLP, New York, NY.

Respondent Morgan Stanley DW, Inc. hereinafter referred to as "Respondent": David A. Travin, Esq., Greenberg Traurig, LLP, New York, NY. Previously represented by: Howard M. Sendrovitz, Esq., Morgan Stanley DW, Inc., New York, NY.

CASE INFORMATION

Statement of Claim filed on or about: June 25, 2003.

Claimant signed the Uniform Submission Agreement: June 11, 2003.

Statement of Answer filed by Respondent on or about: August 27, 2003.

Respondent did not sign the Uniform Submission Agreement.

CASE SUMMARY

Claimant asserted the following causes of action: unsuitable trading; excessive speculative trading; churning; excessively purchasing into and selling out of the same or similar securities; failure to supervise; and respondeat superior. The causes of action relate to common stock, mutual funds, and corporate bonds.

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

RELIEF REQUESTED

Claimant requested compensatory damages in the amount of \$695,000.00; punitive damages in

the amount of \$10,000,000.00; costs and expenses, including reasonable attorneys' fees; and such other and further relief as may be needed.

Respondent requested that the Panel dismiss the Statement of Claim in its entirety; costs and expenses; and such other and further relief as is just and proper.

OTHER ISSUES CONSIDERED AND DECIDED

Respondent did not file with NASD Dispute Resolution a properly executed Uniform Submission Agreement but is required to submit to arbitration pursuant to the Code and, having answered the claim, and appeared and testified at the hearing, is bound by the determination of the Panel on all issues submitted.

Respondent made a motion to dismiss. After due consideration, the Panel determined to deny the motion.

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, and 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. Respondent is liable for and shall pay to Claimant compensatory damages in the amount of \$50,000.00.
2. Any and all relief not specifically addressed herein, including punitive damages, 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	= \$600.00
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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, Morgan Stanley DW, Inc. is a party.

Member surcharge	= \$3,750.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$5,500.00

Forum Fees and Assessments

The Panel has assessed forum fees for each session conducted. A session is any meeting between the parties and the 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 Panel @ \$1,200.00	= \$ 1,200.00
Pre-hearing conference: November 19, 2003 1 session	
Eight (8) Hearing sessions @ \$1,200.00	= \$ 9,600.00
Hearing Dates: January 25, 2005 2 sessions	
January 26, 2005 2 sessions	
January 27, 2005 2 sessions	
March 24, 2005 2 sessions	
<hr/> Total Forum Fees	<hr/> = \$10,800.00

1. The Panel has assessed \$5,400.00 of the forum fees against Claimant.
2. The Panel has assessed \$5,400.00 of the forum fees against Respondent.

Fee Summary

1. Claimant is solely liable for:

Initial Filing Fee	= \$ 600.00
Forum Fees	= \$ 5,400.00
Total Fees	= \$ 6,000.00
<u>Less payments</u>	<u>= \$ 1,800.00</u>
Balance Due NASD Dispute Resolution	= \$ 4,200.00

2. Respondent is solely liable for:

Member Fees	= \$10,000.00
Forum Fees	= \$ 5,400.00
Total Fees	= \$15,400.00
<u>Less payments</u>	<u>= \$10,000.00</u>
Balance Due NASD Dispute Resolution	= \$ 5,400.00

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

ARBITRATION PANEL

Gary A. Gaines	-	Public Arbitrator, Presiding Chairperson
Bertrand M. Lanchner, Esq.	-	Public Arbitrator
Jettie K. Thomas, Esq.	-	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.

Gary A. Gaines
Public Arbitrator, Presiding Chairperson

Signature Date

Bertrand M. Lanchner, Esq.
Public Arbitrator

Signature Date

Jettie K. Thomas, Esq.
Non-Public Arbitrator

Signature Date

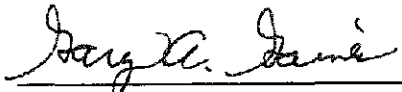
Date of Service (For NASD Dispute Resolution use only)

ARBITRATION PANEL

Gary A. Gaines	-	Public Arbitrator, Presiding Chairperson
Bertrand M. Lanchner, Esq.	-	Public Arbitrator
Jettie K. Thomas, Esq.	-	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.



Gary A. Gaines
Public Arbitrator, Presiding Chairperson

March 31, 2005
Signature Date

Bertrand M. Lanchner, Esq.
Public Arbitrator

Signature Date

Jettie K. Thomas, Esq.
Non-Public Arbitrator

Signature Date

April 7, 2005

Date of Service (For NASD Dispute Resolution use only)

ARBITRATION PANEL

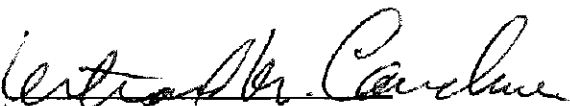
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Gary A. Gaines
Public Arbitrator, Presiding Chairperson

Signature Date


Bertrand M. Lanchner, Esq.
Public Arbitrator

3/30/05
Signature Date

Jettie K. Thomas, Esq.
Non-Public Arbitrator

Signature Date

April 7, 2005
Date of Service (For NASD Dispute Resolution use only)

ARBITRATION PANEL

Gary A. Gaines	-	Public Arbitrator, Presiding Chairperson
Bertrand M. Lanchner, Esq.	-	Public Arbitrator
Jettie K. Thomas, Esq.	-	Non-Public Arbitrator

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Gary A. Gaines
Public Arbitrator, Presiding Chairperson

Signature Date

Bertrand M. Lanchner, Esq.
Public Arbitrator

Signature Date



Jettie K. Thomas, Esq.
Non-Public Arbitrator

3-30-05
Signature Date

April 7, 2005

Date of Service (For NASD Dispute Resolution use only)