

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimant
Morgan Stanley DW Inc.

Case Number: 03-04737

Name of the Respondent
Michael Scott Simmons

Hearing Site: Philadelphia, PA

Nature of the Dispute: Member vs. Associated Person.

REPRESENTATION OF PARTIES

Claimant, Morgan Stanley DW Inc. ("Morgan Stanley"), hereinafter referred to as "Claimant", was represented at the hearing by Robert Scremin, Esq., Kane & Fischer, Ltd., Chicago, Illinois.

Respondent, Michael Scott Simmons, did not appear at the hearing.

CASE INFORMATION

Statement of Claim filed on: June 26, 2003.

A representative of Claimant signed an undated Uniform Submission Agreement.

Respondent did not file a Statement of Answer.

Respondent did not submit a signed the Uniform Submission Agreement.

Claimant filed a Motion to Bar Respondent From Presenting Any Facts or Defenses on: March 3, 2004.

CASE SUMMARY

Claimant, in its Statement of Claim, asserted the following causes of action: failure to repay a promissory note.

RELIEF REQUESTED

Claimant in its Statement of Claim requested:

Compensatory Damages	\$ 36,000.00
Interest	\$ 591.60
Attorneys' Fees	amount unspecified
Other Costs	amount unspecified

OTHER ISSUES CONSIDERED AND DECIDED

Upon review of the file and the representations made by of the Claimant, the undersigned

Arbitration Panel (the "Panel") determined that Respondent Simmons has been properly served with the Statement of Claim and received due notice of the hearing, and that arbitration of the matter would proceed without said Respondent present, in accordance with the NASD Code of Arbitration Procedure (the "Code").

Respondent did not file with NASD Dispute Resolution, a properly executed submission to arbitration but is required to submit to arbitration pursuant to the Code and is bound by the determination of the Panel on all issues submitted.

Claimant has 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. Respondent is liable to and shall pay to Claimant compensatory damages in the amount of thirty-six thousand dollars and no cents (\$ 36,000.00), plus five hundred and ninety-one dollars and sixty cents (\$ 591.60) for interest accrued during the term of the promissory note at the contractual rate of five-percent (5%) from September 6, 2001 through the date of termination (January 4, 2002). Respondent is also liable to and shall pay to Claimant five-thousand seven-hundred and forty-eight dollars and thirty-two cents (\$ 5,748.32) for interest accrued at the legal rate of six-percent (6%) per annum on the balance due and owing under the promissory note from the date of default (January 4, 2002) through the date of the hearing on the merits of this matter (August 31, 2004);
2. Respondent is liable to and shall pay to Claimant six-thousand one-hundred and seventy-seven dollars and zero cents (\$ 6,177.00) in attorneys' fees as allowed by contract;
3. Respondent is liable to and shall pay to Claimant four-thousand four-hundred and eight dollars and sixty-one cents (\$ 4,480.61) in costs, as allowed by contract; and
4. Any and all relief not specifically addressed herein 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	= \$ 1,000.00
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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 firms that employed the associated person(s) at the time of the events giving rise to the dispute. Accordingly, Claimant Morgan Stanley is a party.

Member surcharge	= \$ 875.00
Pre-hearing process fee	= \$ 750.00
<u>Hearing process fee</u>	<u>= \$ 1,000.00</u>
Total Member Fees	= \$ 2,625.00

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 @ \$ 600	= \$ 600.00
Pre-hearing conference: January 21, 2004 1 session	
One (1) Hearing session @ \$ 600	= \$ 600.00
Hearing Date: August 31, 2004 1 session	
<u>Total Forum Fees</u>	<u>= \$ 1,200.00</u>

The Panel has assessed \$ 1,200.00 of the forum fees to Respondent.

SEE SUMMARY

1. Claimant, Morgan Stanley, is assessed and shall pay the following fees:

Initial Filing Fee	= \$ 1,000.00
<u>Member Fees</u>	<u>= \$ 2,625.00</u>
Total Fees	= \$ 3,625.00
<u>Less payments</u>	<u>= \$ 4,225.00</u>
Refund owed to Claimant	= \$ 600.00

2. Respondent, Simmons, is assessed and shall pay the following fees:

<u>Forum Fees</u>	<u>= \$ 1,200.00</u>
Total Fees	= \$ 1,200.00
<u>Less payments</u>	<u>= \$ 00.00</u>
Balance Due NASD Dispute Resolution	= \$ 1,200.00

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

ARBITRATION PANEL

Michael Quarto	- Non-Public Arbitrator, Presiding Chairperson
Elizabeth A. McKinney	- Non-Public Arbitrator, Panelist
Gordon F. Linke	- Non-Public Arbitrator, Panelist

Concurring Arbitrators' Signatures



Michael Quarto

Non-Public Arbitrator, Presiding Chairperson

Sept 7 2004

Signature Date

Elizabeth McKinney

Non-Public Arbitrator, Panelist

Signature Date

Gordon F. Linke

Non-Public Arbitrator, Panelist

Signature Date

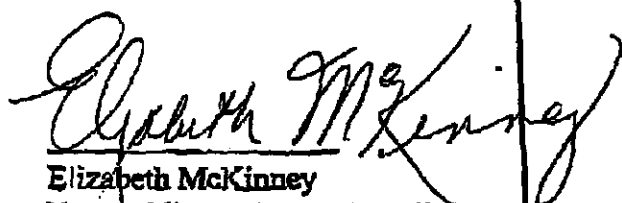
September 7, 2004

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

Concurring Arbitrators' Signatures

Michael Quarto
Non-Public Arbitrator, Presiding Chairperson

Signature Date



Elizabeth McKinney
Non-Public Arbitrator, Panelist



Signature Date

Gordon F. Linke
Non-Public Arbitrator, Panelist

Signature Date

September 7, 2004

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Non-Public Arbitrator, Presiding Chairperson

Signature Date

Elizabeth McKinney
Non-Public Arbitrator, Panelist

Signature Date

Gordon F. Linke
Non-Public Arbitrator, Panelist



Signature Date
9/2/04

September 7, 2004
Date of Service (For NASD Dispute Resolution office use only)