

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Austin G. Habib (Claimant) v. Morgan Stanley DW, Inc., Geoffrey Mann, and A.
Michael Nemeth (Respondents)

Case Number: 03-04888

Hearing Site: New York, New York

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

REPRESENTATION OF PARTIES

Claimant Austin G. Habib ("Habib") hereinafter referred to as "Claimant": James A. Prestiano, Esq. And Billy Vassos, Esq., The Law Offices of James A. Prestiano, P.C., Commack, NY.

Respondents Morgan Stanley DW, Inc. ("MSDW"), Geoffrey Mann ("Mann"), and A. Michael Nemeth ("Nemeth") hereinafter collectively referred to as "Respondents": Daren A. Luma, Esq. And Timothy DiDomenico, Esq., Greenberg Traurig, New York, NY. Previously represented by: Keith Guilfoyle, Esq., Morgan Stanley DW, Inc., New York, NY.

CASE INFORMATION

Statement of Claim filed on or about: June 30, 2003.

Claimant signed the Uniform Submission Agreement: June 25, 2003.

Joint Statement of Answer filed by Respondents on or about: September 19, 2003.

Respondent MSDW signed the Uniform Submission Agreement: September 19, 2003.

Respondent Nemeth signed the Uniform Submission Agreement: October 23, 2003.

Respondent Mann signed the Uniform Submission Agreement: October 23, 2003.

CASE SUMMARY

Claimant asserted the following causes of action: misrepresentation; violation of NASD Rules of Fair Practice and Securities Exchange Act; unsuitability; excessive transactions; respondeat superior; and control person liability. Claimant's claim involved unspecified securities.

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

RELIEF REQUESTED

Claimant requested compensatory damages in the amount of \$90,000.00, plus interest from January 2002; punitive damages; attorneys' fees; costs; disbursements; and such other relief as the Panel deems appropriate.

Respondents requested that Claimant's Statement of Claim be dismissed in its entirety; costs and expenses; and such other and further relief as is just and proper.

OTHER ISSUES CONSIDERED AND DECIDED

During the hearings, both sides made evidentiary motions that were disposed of as indicated on the record.

At the hearing on September 27, 2004, the Claimant moved to recuse Arbitrator Ognelodh and then the entire Panel. After due consideration, the Panel denied the motions.

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. The claims of Claimant are dismissed in their entirety.
2. Any and all relief not specifically addressed herein, including punitive damages, is denied.
3. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Geoffrey Mann's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notices to Members 99-09 and 99-54, Respondent Mann must obtain confirmation from a court of competent jurisdiction before CRD will execute the expungement directive.

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 = \$225.00

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, Morgan Stanley DW, Inc. is a party.

Member surcharge = \$1,100.00
Pre-hearing process fee = \$ 750.00
Hearing process fee = \$1,700.00

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

July 21-22, 2004, adjournment by Claimant = Waived

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 a single arbitrator @ \$450.00 = \$ 900.00
Pre-hearing conferences: June 18, 2004 1 session
July 16, 2004 1 session

One (1) Pre-hearing session with Panel @ \$750.00 = \$ 750.00
Pre-hearing conference: February 2, 2004 1 session

Six (6) Hearing sessions @ \$750.00 = \$4,500.00
Hearing Dates: July 20, 2004 1 session
September 27, 2004 3 sessions
September 28, 2004 2 sessions

Total Forum Fees = \$6,150.00

1. The Panel has assessed \$750.00 of the forum fees against Claimant.
2. The Panel has assessed \$5,400.00 of the forum fees jointly and severally against Respondents MSDW and Nemeth.

Fee Summary

1. Claimant is solely liable for:

Initial Filing Fee	= \$ 225.00
Forum Fees	= \$ 750.00
Total Fees	= \$ 975.00
Less payments	= \$ 975.00
Balance Due NASD Dispute Resolution	= \$ 0.00

2. Respondent MSDW is solely liable for:

Member Fees	= \$3,550.00
Total Fees	= \$3,550.00
Less payments	= \$3,550.00
Balance Due NASD Dispute Resolution	= \$ 0.00

3. Respondents MSDW and Nemeth are jointly and severally liable for:

Forum Fees	= \$5,400.00
Total Fees	= \$5,400.00
Less payments	= \$ 0.00
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

Norris D. Wolff, Esq.	-	Public Arbitrator, Presiding Chairperson
Allen Kilik, Esq.	-	Public Arbitrator
Harold G. Ognelodh, 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 in which is my award.

Norris D. Wolff, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

Allen Kilik, Esq.
Public Arbitrator

Signature Date

Harold G. Ognelodh, Esq.
Non-Public Arbitrator

Signature Date

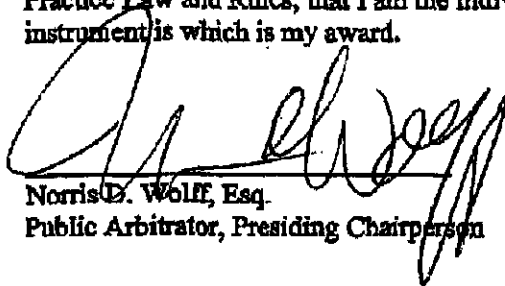
Date of Service (For NASD Dispute Resolution use only)

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Public Arbitrator, Presiding Chairperson

10/13/04
Signature Date

Allen Kilik, Esq.
Public Arbitrator

Signature Date

Harold G. Ognelodh, Esq.
Non-Public Arbitrator

Signature Date

Date of Service (For NASD Dispute Resolution use only) OCTOBER 15, 2004

ARBITRATION PANEL

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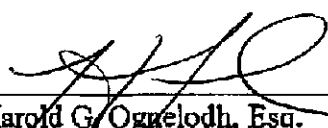
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Signature Date

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Non-Public Arbitrator

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Signature Date

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Signature Date

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Non-Public Arbitrator

Signature Date

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