

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Marcia F. Cohen, Claimant v. Morgan Stanley DW Inc., Barry M. Speyer, and Jac B. Stulberg,
Respondents

Case Number: 03-04975

Hearing Site: Los Angeles, California

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

REPRESENTATION OF PARTIES

For Claimant:

Robert B. Hutchinson, Esq.
Law Offices of Hutchinson & Snider
Beverly Hills, California

For Respondents:

Edward S. Kim, Esq.
Stradling Yocca Carlson & Rauth
Newport Beach, California

CASE INFORMATION

Statement of Claim filed: July 1, 2003

Claimant's Uniform Submission Agreement signed: July 1, 2003

Joint Statement of Answer filed by Respondents: September 19, 2003

Respondent Morgan Stanley DW Inc.'s Uniform Submission Agreement signed:
August 18, 2003

Respondent Barry M. Speyer's Uniform Submission Agreement signed: October 20, 2003

Respondent Jac B. Stulberg's Uniform Submission Agreement signed: December 17, 2003

CASE SUMMARY

Claimant alleged breach of fiduciary duty, unsuitability, negligence, and failure to supervise. Claimant's allegations involved transactions in unspecified securities described as aggressive growth equities, predominately in the high technology field and corporate bonds below investment grade.

Respondents denied the allegations of wrongdoing set forth in the Claimant's Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

Claimant requested \$225,000.00 in compensatory damages, and reimbursement of costs, including attorney's fees.

Respondents requested dismissal of the Claimant's Statement of Claim in its entirety, and costs, including attorney's fees. Respondents Barry M. Speyer and Jac B. Stulberg requested expungement of all reference to the above-captioned arbitration from their respective registration records maintained by the NASD Central Registration Depository.

OTHER ISSUES CONSIDERED AND DECIDED

On July 30, 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.

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

During the hearing the parties stipulated to the dismissal with prejudice of Respondent Barry M. Speyer and to the request for expungement of all reference to the above-captioned arbitration from Respondent Barry M. Speyer's registration records maintained by the NASD Central Registration Depository.

On May 19, 2004, after Claimant Marcia F. Cohen presented her case in chief, Respondents moved the Panel to dismiss the Statement of Claim. After due deliberation, the Panel denied the motion.

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 Morgan Stanley DW Inc. and Jac B. Stulberg are liable to and shall pay Claimant the sum of \$50,000.00 in compensatory damages.
- 2) The Panel recommends the expungement of all reference to the above-captioned arbitration from Respondent Barry M. Speyer's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 99-09, Respondent Barry M. Speyer must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.
- 3) The Parties shall bear their respective costs, including attorney's fees.
- 4) All other relief requested and not expressly granted is denied.

FEES

Pursuant to the Code of Arbitration Procedure (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
<u>Hearing Process Fee</u>	<u>= \$2,750.00</u>
Total Member Fees	= \$5,200.00

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 or the parties and the Panel. The following fees are assessed:

One (1) Pre-hearing conference session with the Panel @ \$1,125.00/session	= \$1,125.00
Pre-hearing conference: December 03, 2003	1 session
Seven (7) Hearing sessions @ \$1,125.00/session	= \$7,875.00
Hearings: May 18, 2004	2 sessions
May 19, 2004	2 sessions
May 20, 2004	3 sessions
Total Forum Fees	= \$9,000.00

1. The Panel assessed \$4,500.00 of the forum fees to Claimant.
2. The Panel assessed \$4,500.00 of the forum fees jointly and severally to Respondents Morgan Stanley DW Inc. and Jac B. Stulberg.

Fee Summary

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

Initial Filing Fee	= \$ 300.00
Forum Fees	= \$ 4,500.00
Total Fees	= \$ 4,800.00
<u>Less payments</u>	<u>= \$(1,425.00)</u>
Balance Due NASD Dispute Resolution	= \$ 3,375.00

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

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

3. Respondents Morgan Stanley DW Inc. and Jac B. Stulberg are charged jointly and severally with the following fees and costs:

Forum Fees	= \$ 4,500.00
Balance Due NASD Dispute Resolution	= \$ 4,500.00

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.

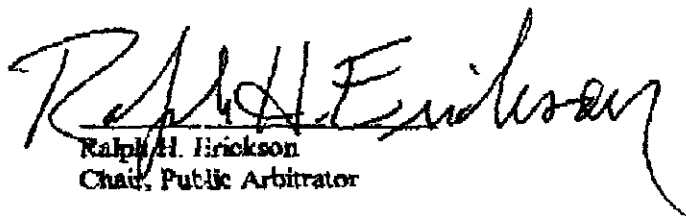
ARBITRATION PANEL

Ralph R. Erickson
Frank Milton Hodgson
Kenneth I. Rosenblum

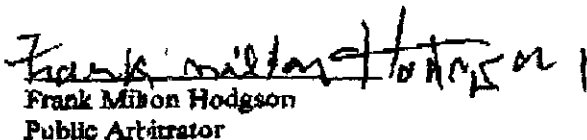
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Public Arbitrator, Presiding Chair
Public Arbitrator
Non-Public Arbitrator

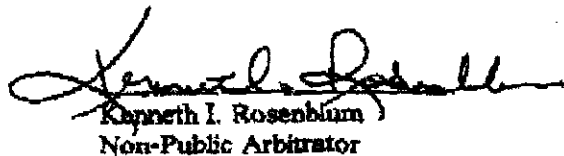
Concurring Arbitrators' Signatures


Ralph R. Erickson
Chair, Public Arbitrator

May 24, 2004
Signature Date


Frank Milton Hodgson
Public Arbitrator

5/24/04
Signature Date


Kenneth I. Rosenblum
Non-Public Arbitrator

5/24/04
Signature Date

5/24/04
Date of Service