

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Chad Ebbs (Claimant) v. Morgan Stanley DW, Inc. and Douglas Masiello (Respondents)

Case Number: 03-05443

Hearing Site: Buffalo, New York

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

REPRESENTATION OF PARTIES

Claimant Chad Ebbs ("Ebbs") hereinafter referred to as "Claimant": William C. Moran, Esq., William C. Moran & Associates, P.C., Williamsville, NY.

Respondents Morgan Stanley DW, Inc. ("MSDW") and Douglas Masiello ("Masiello") hereinafter collectively referred to as "Respondents": Howard Sendrovitz, Esq., Morgan Stanley DW, Inc., New York, NY.

CASE INFORMATION

Statement of Claim filed on or about: July 24, 2003.

Claimant signed the Uniform Submission Agreement: July 20, 2003.

Joint Statement of Answer filed by Respondents on or about: October 1, 2003.

Respondent MSDW signed the Uniform Submission Agreement: March 11, 2004.

Respondent Masiello signed the Uniform Submission Agreement: March 11, 2004.

CASE SUMMARY

Claimant asserted the following causes of action: suitability; churning; margin account forgery; breach of fiduciary duty; and respondeat superior. Claimant's claim involved common stocks, mutual funds, and other 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 \$150,000.00; punitive damages in the amount of \$50,000.00; costs, disbursements, and reasonable attorneys' fees; the cancellation of any margin loans and restoration of interest paid; and any additional and further relief that the Panel deems just, fair, and equitable.

Respondents requested dismissal of 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

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. Claimant's claims are denied in their entirety.
2. Any and all relief not specifically addressed herein, including punitive damages and attorney's fees, 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	= \$300.00
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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 person at the time of the events giving rise to the dispute. Accordingly, Morgan Stanley DW, Inc. is a party.

Member surcharge	= \$1,700.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$2,750.00

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 @ \$1,125.00	= \$1,125.00
Pre-hearing conference: February 24, 2004 1 session	

Three (3) Hearing sessions @ \$1,125.00 = \$3,375.00

Hearing Dates: September 21, 2004 2 sessions
September 22, 2004 1 session

Total Forum Fees = \$4,500.00

1. The Panel has assessed \$2,250.00 of the forum fees against Claimant.
2. The Panel has assessed \$2,250.00 of the forum fees against Respondent, MSDW.

Fee Summary

1. Claimant is solely liable for:

Initial Filing Fee	= \$ 300.00
Forum Fees	= \$ 2,250.00
Total Fees	= \$ 2,550.00
<u>Less payments</u>	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 2,550.00

2. Respondent MSDW is solely liable for:

Member Fees	= \$5,200.00
Forum Fees	= \$2,250.00
Total Fees	= \$7,450.00
<u>Less payments</u>	= \$5,200.00
Balance Due NASD Dispute Resolution	= \$2,250.00

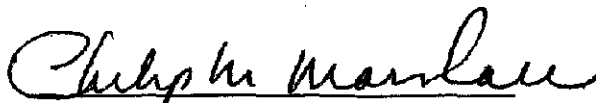
All balances are payable to NASD Dispute Resolution and are due upon receipt pursuant to Rule 10330(g) of the Code.

ARBITRATION PANEL

Philip Marshall, Esq.	-	Public Arbitrator, Presiding Chairperson
Jeffrey A. Sellers, Esq.	-	Public Arbitrator
AnnDrea M. Benson, 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.



Philip Marshall, Esq.
Public Arbitrator, Presiding Chairperson

9/29/04

Signature Date

Jeffrey A. Sellers, Esq.
Public Arbitrator

Signature Date

AnnDrea M. Benson, Esq.
Non-Public Arbitrator

Signature Date

October 5, 2004
Date of Service (For NASD Dispute Resolution use only)

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Public Arbitrator, Presiding Chairperson

Signature Date



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10/1/04

Signature Date

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Signature Date

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