

Stipulated Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

John J. O'Brien (Claimant) v. Morgan Stanley DW, Inc. and Edward MacNeil (Respondents)

Case Number: 03-05625

Hearing Site: Boston, Massachusetts

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

REPRESENTATION OF PARTIES

Claimant John J. O'Brien ("O'Brien") hereinafter referred to as "Claimant": Arnold Rosenblatt, Esq., Cook, Little, Rosenblatt & Manson, PLLC, Manchester, NH.

Respondents Morgan Stanley DW, Inc. ("MSDW") and Edward MacNeil ("MacNeil") hereinafter collectively referred to as "Respondents": Steven G. Kobre, Esq. and Justin M. Sher, Esq., Kobre & Kim, LLP, New York, NY and Victor Olds, Esq., Morgan Stanley DW, Inc., New York, NY.

CASE INFORMATION

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

Amended Statement of Claim filed: November 4, 2003.

Claimant signed the Uniform Submission Agreement: July 28, 2003.

Joint Statement of Answer filed by Respondents on or about: October 21, 2003.

Respondent MSDW did not sign the Uniform Submission Agreement.

Respondent MacNeil did not sign the Uniform Submission Agreement.

CASE SUMMARY

Claimant asserted the following causes of action: breach of contract, negligence, failure to supervise, breach of fiduciary duty, misrepresentations, unauthorized trading, churning, and suitability. The causes of action relate to various common stocks and mutual funds.

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

RELIEF REQUESTED

Claimant requested the following damages:

Compensatory Damages	\$379,345.10
Treble Damages	\$758,690.20
Interest	not specified
Attorneys' Fees	not specified
Other Costs	not specified
Other Monetary/Non-Monetary Relief if any	not specified

Respondents requested that the Panel dismiss the Statement of Claim in its entirety; award Respondents the costs and expenses of this arbitration; order the expungement of this matter from the CRD of Respondent Edward MacNeil; and award Respondents such other relief as is just and proper.

OTHER ISSUES CONSIDERED AND DECIDED

Respondents did not file with NASD Dispute Resolution properly executed Uniform Submission Agreements but are required to submit to arbitration pursuant to the Code and, having answered the claim, are bound by the determination of the Panel on all issues submitted.

On or about November 30, 2004, Claimant notified NASD Dispute Resolution that the parties settled this matter. On or about December 7, 2004, the parties notified NASD Dispute Resolution that they requested a Stipulated Award.

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

The parties entered into an agreement to present to the Panel a Stipulated Award. Now, in lieu of a hearing and upon motion of both parties for an entry of an award, the written stipulation thereto, the Panel grants the motion and enters this award granting the following relief:

1. Pursuant to the confidential settlement agreement reached between the parties in this matter, all claims against Respondents Morgan Stanley DW, Inc. and Edward MacNeil are dismissed with prejudice.
2. This arbitration was filed prior to April 12, 2004. Therefore, current NASD Rule 2310(c) (adopted by SR-NASD-2002-168, as amended by SR-NASD-2003-200) is not applicable. The Panel recommends the expungement of all reference to the above-captioned arbitration from Respondent Edward MacNeil'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 Edward MacNeil 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. All balances are payable to the NASD Dispute Resolution and are due upon receipt pursuant to Rule 10330(g) of the code. Any refunds of administrative costs will be immediately returned to the parties. Any additional administrative costs and Arbitrators' fees that result from Edward MacNeil's pursuit of expungement will not be borne by the Claimant and will be borne by Respondents.
4. Any and all relief not specifically addressed herein is denied in its entirety.
5. Respondents shall seek confirmation of this award in a court of competent jurisdiction in the State of New York.

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 = \$ 500.00

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. In this matter, Morgan Stanley DW, Inc. is a party.

Member Surcharge	= \$2,800.00
Pre-Hearing Process Fee	= \$ 750.00
<u>Hearing Process Fee</u>	<u>= \$5,000.00</u>
Total Member Fees	= \$8,550.00

Adjournment Fees

The following adjournment fees are assessed:

September 13-16, 2004, joint adjournment request = WAIVED

Forum Fees and Assessments

The Panel assesses forum fees for each hearing session conducted. A hearing 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. Forum fees associated with these proceedings are:

One (1) Pre-hearing conference sessions with the Panel @ \$1,200.00/session = \$1,200.00

Pre-hearing conference: January 15, 2004 1 session

Total Forum Fees = \$1,200.00

1. The Panel has assessed \$600.00 of the forum fees against Claimant.
2. The Panel has assessed \$600.00 of the forum fees jointly and severally against Respondents.

Fee Summary

1. Claimant is solely liable for:

Initial Filing Fee = \$ 500.00

Forum Fees = \$ 600.00

Total Fees = \$1,100.00

Less payments = \$2,100.00

Refund Due Claimant = \$1,000.00

2. Respondent MSDW is solely liable for:

Member Fees = \$8,550.00

Total Fees = \$8,550.00

Less payments = \$8,550.00

Balance Due NASD Dispute Resolution = \$ 0.00

3. Respondents are jointly and severally liable for:

Forum Fees = \$ 600.00

Total Fees = \$ 600.00

Less payments = \$ 0.00

Balance Due NASD Dispute Resolution = \$ 600.00

All balances are due and payable to NASD Dispute Resolution

NASD Dispute Resolution
Arbitration No. 03-05625
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Parties' Signatures

as counsel
John J. O'Brien
(for)

John J. O'Brien
Claimant

3/30/05
Signature Date

Morgan Stanley DW, Inc.
Respondent

Signature Date

Edward MacNeil
Respondent

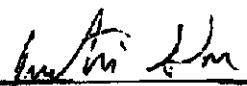
Signature Date

NASD Dispute Resolution
Arbitration No. 03-05625
Award Page 5 of 6

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John J. O'Brien
Claimant

Signature Date


Morgan Stanley DW, Inc.
Respondent

3/30/05
Signature Date


Edward MacNeil
Respondent


3/30/05
Signature Date

ARBITRATION PANEL

Arthur M. Read, II, Esq.	-	Public Arbitrator, Presiding Chair
Allan E. Johnson	-	Public Arbitrator
Robert L. Barker	-	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 is which is my award.



Arthur M. Read, II, Esq.
Public Arbitrator, Presiding Chair

4/28/05
Signature Date

Allan E. Johnson
Public Arbitrator

Signature Date

Robert L. Barker
Non-Public Arbitrator

Signature Date

May 12, 2005

Date of Service (For NASD office use only)

ARBITRATION PANEL

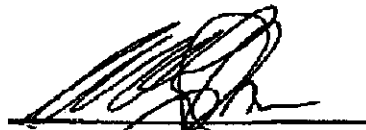
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Allan E. Johnson	-	Public Arbitrator
Robert L. Barker	-	Non-Public Arbitrator

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Arthur M. Read, II, Esq.
Public Arbitrator, Presiding Chair

Signature Date



Allan E. Johnson
Public Arbitrator

5/3/05

Signature Date

Robert L. Barker
Non-Public Arbitrator

Signature Date

May 12, 2005

Date of Service (For NASD office use only)

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Allan E. Johnson	-	Public Arbitrator
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Arthur M. Read, II, Esq.
Public Arbitrator, Presiding Chair

Signature Date

Allan E. Johnson
Public Arbitrator

Signature Date



Robert L. Barker
Non-Public Arbitrator

5/2/05
Signature Date

May 12, 2005

Date of Service (For NASD office use only)