

**Stipulated Award
NASD Dispute Resolution**

In the Matter of the Arbitration Between:

Name of the Claimant

Richard C. Cardone

Case Number: 03-05699

Names of the Respondents

Morgan Stanley DW Inc.

James Brooks

Hearing Site: New York, New York

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

REPRESENTATION OF THE PARTIES

Richard C. Cardone ("Cardone"), hereinafter referred to as "Claimant": Marcia L. Adelson, Esq., Tarrytown, NY.

Morgan Stanley DW Inc. ("MSDW") and James Brooks ("Brooks") hereinafter collectively referred to as "Respondents": Lisa Dodge, Esq., Morgan Stanley Law Division, Sarasota, FL, and Peter W. Homer, Esq., HomerBonner, Miami, FL.

CASE INFORMATION

Statement of Claim filed on or about: August 1, 2003.

Claimant signed the Uniform Submission Agreement: July 19, 2003.

Joint Statement of Answer filed by Respondents on or about: October 6, 2003.

Respondent MSDW signed the Uniform Submission Agreement: October 2, 2003.

Respondent Brooks signed the Uniform Submission Agreement: September 26, 2003.

CASE SUMMARY

Claimant asserted the following causes of action: (1) Respondents engaged in excessive account activity or "churning"; (2) Respondents' investment recommendations were unsuitable; (3) Respondents breached their fiduciary duty; (4) Respondents engaged in unauthorized trading; (5) Respondents acted fraudulently; (6) Respondents were negligent in the handling of Claimant's accounts; (7) Respondents breached the Customer Agreement; and (8) Respondent MSDW failed to supervise. Claimant's claim involved shares of common stock.

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

RELIEF REQUESTED

Claimant requested compensatory damages in excess of \$127,000.00, plus interest, restitution of all fees, commissions, interest paid and other costs and expenses incurred by Claimant in effecting the transactions in his accounts, costs, attorneys' fees, punitive damages, and such other relief as is deemed just and proper.

Respondents requested that all claims against them be dismissed, that Respondents be awarded their costs, that Respondents be permitted to seek their fees in a court of law, and that the Panel order expungement of this matter from their CRD records.

OTHER ISSUES CONSIDERED AND DECIDED

On or about July 2, 2004, the parties notified NASD Dispute Resolution that they settled this matter.

On or about August 8, 2004, Respondents made a motion to re-open this matter and requested the entry of this stipulated award. The Panel granted Respondents' 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

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 entry of an award, the written stipulation thereto, the Panel grants the motion and enters this award granting the following relief:

1. Claimant's claims for relief are dismissed with prejudice, with each party to bear its respective costs and attorneys' fees.
2. The Panel recommends the expungement of all references to the above-captioned arbitration from Respondent James Brooks' registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Member 99-09 and 99-54, Respondent James Brooks must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.
3. Any and all claims for relief not specifically addressed herein, including Claimant's request for punitive damages and attorneys' fees, are denied with prejudice.
4. Respondent MSDW and Claimant Cardone shall split the responsibility of the NASD arbitration forum fees (50-50); however, Respondents shall bear any NASD arbitration forum fees associated with the expungement.

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 from Claimant = \$300.00

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	= \$1,700.00
Pre-hearing process Fee	= \$ 750.00
Hearing Process Fee	= \$2,750.00
Total Member Fees	= \$5,200.00

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 session with a single arbitrator @ \$450.00/session = \$ 450.00
Pre-hearing conference: June 24, 2004 1 session

Two (2) Pre-hearing conference sessions with the Panel @ \$1,125.00/session = \$2,250.00
Pre-hearing conferences: January 23, 2004 1 session
January 28, 2005 1 session

Total Forum Fees = \$2,700.00

1. The Panel has assessed 50% of the forum fees for the June 24, 2004 and January 23, 2004 pre-hearing conferences, or \$787.50, against Claimant.
2. The Panel has assessed 50% of the forum fees for the June 24, 2004 and January 23, 2004 pre-hearing conferences, or \$787.50, and 100% of the forum fees for the January 28, 2005 pre-hearing conference, or \$1,125.00, for a total of \$1,912.50 in forum fees jointly and severally against Respondents.

Fee Summary

1. Claimant is solely liable for:

Initial Filing Fee	= \$ 300.00
Forum Fees	= \$ 787.50
Total Fees	= \$1,087.50
Less payments	= \$1,425.00

Refund previously paid to Claimant = \$ 337.50

3. Respondent Morgan Stanley is solely liable for:

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

4. Respondents are jointly and severally liable for:

<u>Forum Fees</u>	= \$1,912.50
Total Fees	= \$1,912.50
<u>Less payments</u>	= \$ 787.50
Balance Due NASD Dispute Resolution	= \$1,125.00

All balances are due and payable to NASD Dispute Resolution.

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Parties' Signatures

Richard C Cardone

Richard C. Cardone
Claimant

March 28, 2005
Signature Date

Morgan Stanley DW, Inc.
Respondent

Signature Date

James Brooks
Respondent

Signature Date

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Parties' Signatures

Richard C. Cardone
Claimant

Signature Date

Ken B. Brady, V.P.
Morgan Stanley DW, Inc.
Respondent

3/28/05
Signature Date

James Brooks
Respondent

Signature Date

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Parties' Signatures

Richard C. Cardone
Claimant

Signature Date

Morgan Stanley DW, Inc.
Respondent

Signature Date



James Brooks
Respondent

3/24/2005


Signature Date

ARBITRATION PANEL

Mary Jo Marchisello, Esq.	-	Public Arbitrator, Presiding Chair
Aaron Friedman	-	Public Arbitrator
Jonathan R. Morris, 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 which is my award.



Mary Jo Marchisello, Esq.
Public Arbitrator, Presiding Chairperson

5/11/05

Signature Date

Aaron Friedman
Public Arbitrator

Signature Date

Jonathan R. Morris, Esq.
Industry Arbitrator

Signature Date

June 22, 2005

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

ARBITRATION PANEL

Mary Jo Marchisello, Esq.	-	Public Arbitrator, Presiding Chair
Aaron Friedman	-	Public Arbitrator
Jonathan R. Morris, 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 which is my award.

Mary Jo Marchisello, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

Aaron Friedman
Public Arbitrator

May 14, 2005
Signature Date

Jonathan R. Morris, Esq.
Industry Arbitrator

Signature Date

June 22, 2005

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

ARBITRATION PANEL

Mary Jo Marchisello, Esq.	-	Public Arbitrator, Presiding Chair
Aaron Friedman	-	Public Arbitrator
Jonathan R. Morris, Esq.	-	Non-Public Arbitrator

Concurring Arbitrators Signatures

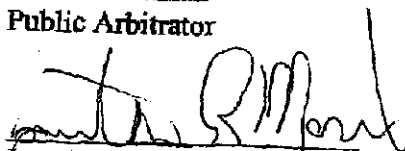
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Mary Jo Marchisello, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

Aaron Friedman
Public Arbitrator

Signature Date


Jonathan R. Morris, Esq.
Industry Arbitrator

5/12/05
Signature Date

June 22, 2005

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