

**Stipulated Award
NASD Dispute Resolution**

In the Matter of the Arbitration Between:
Gary D. Zimmerle, Claimant

Case Number:- 03-05715

v.

Morgan Stanley DW, Inc and Mark Shupe,
Respondents

Hearing Site: St. Louis, Missouri

NATURE OF THE DISPUTE

Customer vs. Member Firm and Associated Person

REPRESENTATION OF PARTIES

Claimant, Gary D. Zimmerle ("Zimmerle"), hereinafter referred to as "Claimant": John J. Miller, Esq., Kansas City, Missouri.

Respondents, Morgan Stanley DW, Inc. ("Morgan Stanley") and Mark Shupe, ("Shupe"), hereinafter collectively referred to as "Respondents": Jonathan Robbins, Esq., in-house counsel for Morgan Stanley DW, Inc., San Francisco, California.

CASE INFORMATION

Statement of Claim filed on or about: August 4, 2003.

Claimant Zimmerle signed the Uniform Submission Agreement: July 10, 2003

Statement of Answer filed by Respondents, Morgan Stanley and Shupe, on or about: September 25, 2003.

Respondent Shupe signed the Uniform Submission Agreement: February 5, 2004

CASE SUMMARY

Claimants asserted the following causes of action: violation of state securities laws, misrepresentations, negligence and breach of fiduciary duty.

Unless specifically admitted in its Answer, Respondents, Morgan Stanley and Shupe, denied the allegations made in the Statement of Claim and asserted the following defenses: failure to state a claim, consent, ratification, indemnification, failure to exercise due diligence, failure to mitigate and statute of limitations.

RELIEF REQUESTED

Claimants requested: \$168,573.00 in compensatory damages, unspecified punitive damages, attorney's fees and costs.

Respondents, Morgan Stanley and Shupe, requested denial and dismissal of all claims in their entirety.

OTHER ISSUES CONSIDERED AND DECIDED

Respondent, Morgan Stanley DW, Inc. did not file with NASD Dispute Resolution, a properly executed submission to arbitration but is required to submit to arbitration pursuant to the Code and, having answered the claim, is bound by the determination of the Panel on all issues submitted.

On or about August 19, 2004, Claimants notified NASD Dispute Resolution that this matter had been settled. As part of the parties' settlement agreement, Respondents submitted a proposed Stipulated Award with a request that the Panel enter the Stipulated Award expunging all references to this matter from Respondent Mark Shupe's registration records maintained by NASD.

The parties have agreed that the Stipulated Award in this matter may be executed in counterpart copies.

AWARD

After considering the parties' submissions and representations, but without making any findings of fact or conclusions of law, the undersigned arbitrators order as follows:

- 1.) The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Mark Shupe's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 99-09, Respondent Shupe must obtain confirmation from a court of competent jurisdiction before the 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	= \$ 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 event(s) giving rise to the dispute. In this matter, the member firm 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 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. Fees associated with these proceedings are:

One (1) Pre-hearing session with Panel x \$1,125.00	= \$1,125.00
Pre-hearing conference: March 5, 2004 1 session	
Total Forum Fees	= \$1,125.00

The parties have agreed to pay forum fees as follows:

1. Claimant shall solely pay 50% of the total forum fees in the amount of \$562.50.
2. Respondents shall pay 50% of the total forum fees in the amount of \$562.50, jointly and severally.

Fee Summary

Claimant, Gary D. Zimmerle, be and hereby are jointly and severally liable for:

Initial Filing Fee	= \$ 300.00
Forum Fees	= \$ 562.50
Total Fees	= \$ 862.50
Less payments	= \$ 862.50
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondent, Morgan Stanley DW, Inc., be and hereby is solely liable for:

Member Fees	= \$5,200.00
Less payments	= \$5,200.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondents, Morgan Stanley DW, Inc. and Mark Shupe, be and hereby are jointly and severally liable for:

Forum Fees	= \$ 562.50
Less payments	= \$ 562.50
Balance Due NASD Dispute Resolution	= \$ 0.00

All balances are due to NASD Dispute Resolution.

ARBITRATION PANEL

John R. Loss	-	Public Arbitrator, Presiding Chairperson
Lawrence M. Raskin	-	Public Arbitrator
Lynn D. Newton	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

John R. Loss
Public Arbitrator, Presiding Chair

2/1/05
Signature Date

Lawrence M. Raskin
Public Arbitrator

1/30/05
Signature Date

Lynn D. Newton
Non-Public Arbitrator

1/31/05
Signature Date

2/8/05
Date of Service (For NASD office use only)

ARBITRATION PANEL

John R. Loss	•	Public Arbitrator, Presiding Chairperson
Lawrence M. Raskin	-	Public Arbitrator
Lynn D. Newton	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

John R. Loss
John R. Loss
Public Arbitrator, Presiding Chair

2/11/05
Signature Date

Lawrence M. Raskin
Lawrence M. Raskin
Public Arbitrator

Signature Date

Lynn D. Newton
Lynn D. Newton
Non-Public Arbitrator

Signature Date

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Lynn D. Newton

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- Public Arbitrator
- Non-Public Arbitrator

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Public Arbitrator, Presiding Chair

Lawrence M. Raskin
Public Arbitrator

Lynn D. Newton
Non-Public Arbitrator

Signature Date

1/30/05

Signature Date

Signature Date

Date of Service (For NASD office use only)

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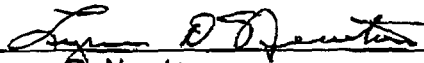
Concurring Arbitrators' Signatures

John R. Loss
Public Arbitrator, Presiding Chair

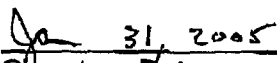
Signature Date

Lawrence M. Raskin
Public Arbitrator

Signature Date



Lynn D. Newton
Non-Public Arbitrator



Signature Date

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