

**NASD DISPUTE RESOLUTION AWARD**  
**NASD DISPUTE RESOLUTION**

CASE: 03-05838

Edward F. Shell, Jr., Claimant v. Morgan Stanley DW Inc. f/k/a Dean Witter Reynolds Inc., and Peter J. Zarkowski, Respondents.

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**ATTORNEYS:**

For Claimant, Edward F. Shell, Jr., ("Claimant"), appeared Martin J. Brosnan of the firm Caputo Brosnan P.C., Warren, MI.

Respondents, Morgan Stanley DW Inc. f/k/a Dean Witter Reynolds Inc. and Peter J. Zarkowski, (collectively "Respondents") appeared through their in-house counsel, Artur M. Wlazlo, New York, NY.

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**NATURE OF DISPUTE:** Customer v. Member and Associated Person

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**DATE FILED:** August 4, 2003

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**CASE SUMMARY:** Claimant alleged that Respondents breached their contract and their fiduciary duty, misrepresented and omitted material facts regarding Real Estate Investment Trusts and Mutual Funds, and recommended unsuitable stock for his IRA. Claimant maintained that due to Respondents' action, he suffered financial losses.

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**Claim Data**

Claim: \$25,000.00  
Filing Fees: \$425.00  
Other: Unspecified

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**Award Data**

Award: \$.00  
Filing Fees: \$.00  
Other: \$.00

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**AWARD:** The undersigned arbitrator has decided and determined in full and final resolution of the issues submitted for determination as follows: 1) The claims of Claimant are dismissed in their entirety. 2) The arbitrator recommends the expungement of all reference to NASD-DR Arbitration Case No. 03-05838 Edward F. Shell, Jr. v. Paul J. Zarkowski and Morgan Stanley Dean Witter & Co., from Respondent Paul J. Zarkowski's registration record maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 99-09, Respondent Paul J. Zarkowski must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive. 3) All other relief requests are denied. 4) NASD Dispute Resolution shall retain the \$425.00 filing fee that the Claimant deposited previously.

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**OTHER FEES:** Pursuant to Rule 10333 of the Code, Respondent Morgan Stanley DW Inc. has paid to NASD Dispute Resolution the \$425.00 Member Surcharge previously invoiced.

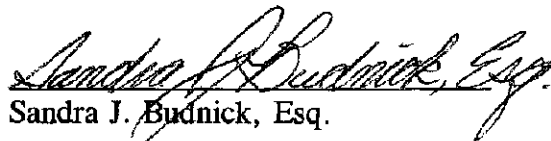
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Sandra J. Budnick, Esq.

Sole Public Arbitrator

**AFFIRMATION**

I, Sandra J. Budnick, Esq., do hereby affirm, upon my oath as arbitrator that I am the individual described herein who executed this instrument, which is my oath and award.

  
Sandra J. Budnick, Esq.

12.23.03  
Signature Date

January 9, 2004  
Date of Service (For NASD-DR office use only)