

Stipulated Award
NASD Dispute Resolution

COPY

In the Matter of the Arbitration Between:

Guido V. Lavorini, individually and in his capacity as Trustee of The Lavorini Family Trust DTD 6/18/91 and The Lillian Lavorini Family Trust, Claimants v. Morgan Stanley DW Inc., Shubie Gulati and Jonathan M. Guidi, Respondents

Case Number: 03-06067

Hearing Site: San Francisco, California

Nature of the Dispute: Customers v. Member and Associated Persons

REPRESENTATION OF PARTIES

For Claimants:

Barry S. Willdorf, Esq.
Law Offices of Barry S. Willdorf
San Francisco, California

For Respondents:

Kevin H. Lewis, Esq.
Howard, Rice, Nemerovski, Canady,
Falk & Rabkin
San Francisco, California

CASE INFORMATION

Statement of Claim filed: August 19, 2003

Amended Statement of Claim filed on or about: April 7, 2004

Claimants' Motion to Permit Filing of Second Amended Statement of Claim and Second Amended Statement of Claim filed: July 20, 2004

Claimants' Uniform Submission Agreement filed: August 19, 2003

Joint Statement of Answer filed by Respondents Morgan Stanley DW Inc. ("Morgan Stanley"), Shubie Gulati and Jonathan M. Guidi: October 28, 2003

Respondents' Statement of Answer to Claimant's Amended Statement of Claim filed: June 2, 2004

Respondents' Response to Claimants' Motion to Permit Filing of Second Amended Statement of Claim filed: August 25, 2004

Respondent Morgan Stanley's Uniform Submission Agreement signed: October 28, 2003

Respondent Shubie Gulati's Uniform Submission Agreement signed: October 10, 2003

Respondent Jonathan M. Guidi's Uniform Submission Agreement signed: October 10, 2003

CASE SUMMARY

Claimants alleged the following claims with respect to investments in various securities, including but not limited to, investments in B series technology funds and Morgan Stanley's own unit trust funds: 1) Intentional Breach of Duty (Suitability); 2) Negligent Breach of Duty (Suitability); 3) Unauthorized Trading; 4) Failure to Supervise; 5) Breach of Contract; and 6) Excessive Trading and Churning.

Respondents denied Claimants' allegations of wrongdoing and denied any liability to Claimants. Respondents also asserted various affirmative defenses.

RELIEF REQUESTED

Claimants requested:

1. Compensatory damages sufficient to make Claimants whole including economic damages based upon the well managed portfolio method;
2. Exemplary and punitive damages in a sum according to proof;
3. Reasonable Attorney's fees;
4. Costs, including forum and session fees; and
5. Such other and further relief as the Panel may deem just and proper.

Respondents requested:

1. Dismissal of Claimants' claims in their entirety;
2. An order that this matter be permanently expunged from Ms. Gulati's Form U-4 on file with the NASD and Central Registration Depository;
3. Costs; and
4. Such other relief as may be just, proper, and provided by law.

OTHER ISSUES CONSIDERED AND DECIDED

On October 21, 2003, Claimants and Claimants' counsel signed a Waiver Agreement expressly waiving any and all rights and benefits under California Civil Code Section 1542 and the California Ethical Standards for Neutral Arbitrators.

Pursuant to the Code of Arbitration Procedure IM-10100, the waiver of the Claimants shall constitute and operate as a waiver for all member firms and associated persons (including terminated or otherwise inactive member firms or associated persons) against whom the Claim has been filed.

On or about June 1, 2004, the Panel permitted the filing of Claimants' Amended Statement of Claim.

On or about September 28, 2004, the Panel permitted the filing of Claimants' Second Amended Statement of Claim.

The parties agreed that the Stipulated 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 attached Stipulation for Entry of Award, the Panel decided in full and final resolution of the issues submitted for determination as follows:

1. On March 15, 2004, Claimants dismissed all claims against Respondent Shubie Gulati without prejudice.
2. Claimants' claims against Respondents Morgan Stanley, Jonathan M. Guidi, and Shubie Gulati are hereby dismissed in their entirety with prejudice pursuant to the parties' settlement agreement.
3. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Shubie Gulati's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 99-09, Respondent Shubie Gulati must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.
4. Each party shall bear its own costs, including attorney's fees.
5. All other relief not expressly granted is denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Dispute Resolution received or will collect the non-refundable filing fees for each claim as follows:

Initial claim filing fee = \$ 250.00

Member Fees

Member fees are assessed to each member firm that is either a party in the matter or an employer of a respondent associated person at the time of the events which gave rise to the dispute, claim, or controversy. Accordingly, the member firm Morgan Stanley is a party and the following fees are assessed:

Member Surcharge	= \$ 1,500.00
Pre-Hearing Process Fee	= \$ 750.00
<u>Hearing Process Fee</u>	<u>= \$ 2,200.00</u>
Total Member Fees	= \$ 4,450.00

Forum Fees and Assessments

The Panel assessed a forum fee for each pre-hearing conference or hearing session conducted. A pre-hearing conference and hearing session is any meeting between the parties and the Chair/Panel. The following fees are assessed:

(1) Pre-hearing conference session with the Panel @ \$1,000.00/session = \$ 1,000.00
Pre-hearing conference: January 27, 2004 1 session

Total Forum Fees = \$ 1,000.00

1. The Panel assessed \$500.00 of the forum fees to Claimants, jointly and severally.
2. The Panel assessed \$500.00 of the forum fees to Respondent Morgan Stanley.

Fee Summary

1. Claimants are charged jointly and severally with the following fees and costs:

Initial Filing Fee	= \$ 250.00
<u>Forum Fees</u>	<u>= \$ 500.00</u>
Total Fees	= \$ 750.00
Retained deposit in accordance with Rule 10332(f) of the Code	= \$ 500.00
<u>Less payments</u>	<u>= \$(1,425.00)</u>
Refund Due Claimants	= \$(175.00)

2. Respondent Morgan Stanley is charged with the following fees and costs:

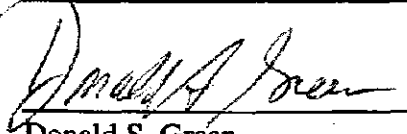
Member Fees	= \$ 4,450.00
<u>Forum Fees</u>	= \$ 500.00
Total Fees	= \$ 4,950.00
<u>Less payments</u>	= \$(5,250.00)
Refund Due Morgan Stanley	= \$(300.00)

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

ARBITRATION PANEL

Donald S. Green	-	Public Arbitrator, Presiding Chair
Jeffrey M. Allen, Esq.	-	Public Arbitrator
Carlos Richard Mangum	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures


Donald S. Green
Chair, Public Arbitrator

Apr 25 2005
Signature Date

Jeffrey M. Allen, Esq.
Public Arbitrator

Signature Date

Carlos Richard Mangum
Non-Public Arbitrator

Signature Date

5/6/05
Date of Service

2. Respondent Morgan Stanley is charged with the following fees and costs:

Member Fees	= \$ 4,450.00
Forum Fees	= \$ 500.00
Total Fees	= \$ 4,950.00
Less payments	= \$(5,250.00)
Refund Due Morgan Stanley	= \$(300.00)

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Donald S. Green
Chair, Public Arbitrator

Signature Date



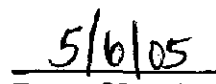
Jeffrey M. Allen, Esq.
Public Arbitrator



Signature Date

Carlos Richard Mangum
Non-Public Arbitrator

Signature Date



Date of Service

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Carlos Richard Mangum	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

Donald S. Green
Chair, Public Arbitrator

Signature Date

Jeffrey M. Allen, Esq.
Public Arbitrator

Signature Date



Carlos Richard Mangum
Non-Public Arbitrator

4-13-05
Signature Date

5/16/05
Date of Service

1 GILBERT R. SEROTA (No. 75305)
KEVIN H. LEWIS (No. 197421)
2 HOWARD RICE NEMEROVSKI CANADY
FALK & RABKIN
3 A Professional Corporation
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4 San Francisco, California 94111-4024
Telephone: 415/434-1600
5 Facsimile: 415/217-5910

6 Attorneys for Respondents
MORGAN STANLEY DW INC. and JONATHAN
7 GUIDI

8 BEFORE THE
9 THE NASD DISPUTE RESOLUTION, INC.

10 GUIDO V. LAVORINI, individually and in
his capacity as TRUSTEE OF THE
11 LAVORINI FAMILY TRUST, DTD
6/18/91 and THE LILLIAN LAVORINI
12 FAMILY TRUST

NASD Case No. 03-06067

STIPULATION FOR ENTRY
OF AWARD

13 Claimants,

14 v.

15 MORGAN STANLEY DW INC. et al.

16 Respondents.

17 IT IS HEREBY STIPULATED, by and among Claimants Guido V. Lavorini,
18 individually and in his capacity as Trustee of the Lavorini Family Trust, dtd 6/18/91 and the
19 Lillian Lavorini Family Trust ("Claimants") and Respondents Morgan Stanley DW Inc.
20 ("Morgan Stanley") et al. to the entry of an Award in this matter. The terms of the Award
21 are as follows:

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23 Gulati without prejudice;

24 2. Claimants' claims against Respondents Morgan Stanley, Jonathan Guidi, and
25 Shubie Gulati are hereby dismissed in their entirety with prejudice pursuant to the parties'
26 settlement agreement;

27 3. All references to NASD Arbitration Case No. 03-06067, and any other claims
28

1 asserted by Claimants against Shubie Gulati are to be expunged from Ms. Gulati's
2 registration records maintained by the NASD Central Registration Depository ("CRD"),
3 with the understanding that pursuant to NASD Notice to Members 99-09 and 99-54, Ms.
4 Gulati must obtain confirmation from a court of competent jurisdiction before the CRD will
5 execute the expungement directive;

6 4. The parties believe that expungement is appropriate because Claimants' claims
7 against Shubie Gulati did not relate to sales practice or investment issues. Instead, they were
8 based on Ms. Gulati's alleged failure to respond to informational requests made by members
9 of Claimants' family concerning their Morgan Stanley accounts.

10 5. Each party shall bear his, her, or its own costs, including attorneys' fees and
11 forum fees; and

12 6. All relief not expressly granted herein is denied.

13
14 DATED: January 27, 2005.

15 GILBERT R. SEROTA
16 KEVIN H. LEWIS
17 HOWARD, RICE, NEMEROVSKI, CANADY,
18 FALK & RABKIN
19 A Professional Corporation

20 By: 
21 KEVIN H. LEWIS

22 Attorneys for Attorneys for Respondents
23 MORGAN STANLEY DW INC. and SHUBIE
24 GULATI

25 DATED: January 27, 2005.

26 LAW OFFICES OF BARRY S. WILDORF

27 By: 
28 BARRY S. WILDORF

Attorneys for Claimants GUIDO V.
LAVORINI, individually and in his capacity as
TRUSTEE OF THE LAVORINI FAMILY
TRUST, DTD 6/18/91 and THE LILLIAN
LAVORINI FAMILY TRUST

ARBITRATORS

DATED: _____, 2005.

Mr. Donald Green

DATED: _____, 2005.

Mr. Carols R. Mangum

DATED: _____, 2005.

Mr. Jeffrey M. Allen

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NEMEROWSKI
CANADY
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& RABKIN

A Professional Corporation

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23 Respondents.

NASD Case No. 03-06067

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Received

APR 29 2005

NASD West Regional
Dispute Resolution Office

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7 against Shubie Gulati did not relate to sales practice or investment issues. Instead, they were
8 based on Ms. Gulati's alleged failure to respond to informational requests made by members
9 of Claimants' family concerning their Morgan Stanley accounts.

10 5. Each party shall bear his, her, or its own costs, including attorneys' fees and
11 forum fees; and

12 6. All relief not expressly granted herein is denied.

13
14 DATED: January 24, 2005.

15 GILBERT R. SEROTA
16 KEVIN H. LEWIS
17 HOWARD, RICE, NEMEROVSKI, CANADY,
18 FALK & RABKIN
19 A Professional Corporation

20 By: 

KEVIN H. LEWIS

21 Attorneys for Attorneys for Respondents
22 MORGAN STANLEY DW INC. and SHUBIE
23 GULATI

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25 LAW OFFICES OF BARRY S. WILDORF

26 By: 

BARRY S. WILDORF

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ARBITRATORS

DATED: April 25, 2005.

Donald L. Green
Mr. Donald Green

DATED: _____, 2005.

Mr. Carols R. Mangum

DATED: _____, 2005.

Mr. Jeffrey M. Allen

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20 By: 
21 KEVIN H. LEWIS

22 Attorneys for Attorneys for Respondents
23 MORGAN STANLEY DW INC. and SHUBIE
24 GULATI

25 DATED: January 27, 2005.

26 LAW OFFICES OF BARRY S. WILDORF

27 By: 
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DATED: _____, 2005.

Mr. Donald Green

DATED: 4-13-05, 2005.



Mr. Carols R. Mangum

DATED: _____, 2005.

Mr. Jeffrey M. Allen

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Attorneys for Respondents
 MORGAN STANLEY DW INC. and JONATHAN
 GUIDI

BEFORE THE

THE NASD DISPUTE RESOLUTION, INC.

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20 By: 

21 KEVIN H. LEWIS

22 Attorneys for Attorneys for Respondents
23 MORGAN STANLEY DW INC. and SHUBIE
24 GULATI

25 DATED: January 27, 2005.

26 LAW OFFICES OF BARRY S. WILDORF

27 By: 

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TRUST, DTD 6/18/91 and THE LILLIAN
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ARBITRATORS

DATED: _____, 2005.

Mr. Donald Green

DATED: _____, 2005.

Mr. Carols R. Mangum

DATED: 2/13, 2005.

Mr. Jeffrey M. Allen

HOWARD
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