

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Paul Jinsup Choi and Susie Chungja Choi, Claimants v. Morgan Stanley DW Inc. and Gene Sangjin Pak, Respondents

Case Number: 04-02061

Hearing Site: Los Angeles, California

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

REPRESENTATION OF PARTIES

For Claimants:

Dennis R. Villavicencio, Esq.
Akins & Villavicencio, LLP
Carlsbad, California

For Respondents:

Ronald E. Wood, Esq.
Morgan Stanley DW Inc.
Los Angeles, California

CASE INFORMATION

Statement of Claim filed: March 25, 2004

Claimants' Joint Uniform Submission Agreement signed: March 22, 2004

Joint Statement of Answer filed by Respondents: May 19, 2004

Respondent Morgan Stanley DW Inc.'s Uniform Submission Agreement signed:
November 15, 2004

Respondent Gene Sangjin Pak's Uniform Submission Agreement signed: November 15, 2004

CASE SUMMARY

Claimants alleged breach of fiduciary duty, negligence, fraud, deceit and omission of material fact, fraudulent concealment, negligent misrepresentation, breach of complied covenant of good faith and fair dealing, unauthorized trading, churning, recommendation of unsuitable investments, violation of federal and California securities laws, violation of California's Civil Code and Business and Professions Code, violation of NASD Rules, breach of written contract, and failure to supervise. Claimants' allegations involved transactions in B shares of PaineWebber proprietary funds and an Alliance technology fund, and securities in America OnLine, Microsoft, Yahoo, Cisco Systems, Lucent Technologies, Sun Microsystems, 4 Kids Entertainment, Agilent Technologies, Conexant Systems, and JDS Uniphase.

Respondents denied the allegations of wrongdoing set forth in the Claimants' Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

Claimants requested \$90,000.00 in compensatory damages, unspecified punitive and exemplary damages, and costs, including attorney's fees.

Respondents requested dismissal of the Claimants' Statement of Claim in its entirety.

OTHER ISSUES CONSIDERED AND DECIDED

On April 13, 2004, Claimants filed a Waiver Agreement signed by Claimants and Claimants' counsel 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 waivers 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.

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

After considering the pleadings, testimony, and evidence presented at the hearing, the Panel decided in full and final resolution of the issues submitted for determination as follows:

- 1) Claimants' claims are denied in their entirety.
- 2) The parties shall bear their respective costs, including attorney's fees.
- 3) All other relief requested and not expressly granted is denied.

FEES

Pursuant to the NASD *Code of Arbitration Procedure* ("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	= \$ 225.00
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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 that gave rise to the dispute, claim, or controversy. Accordingly, the member firm Morgan Stanley DW Inc. is a party and the following fees are assessed:

Member Surcharge	= \$ 1,100.00
Pre-Hearing Process Fee	= \$ 750.00
Hearing Process Fee	= \$ 1,700.00
Total Member Fees	= \$ 3,550.00

Adjournment Fees

The following adjournment fees are assessed:

December 15 -17, 2004 Hearing Dates, adjournment requested jointly by Claimants and Respondents	= \$ 750.00
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The Panel assessed \$750.00 of the adjournment fees to Respondent Morgan Stanley DW Inc.

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 or the parties and the Panel. The following fees are assessed:

One (1) Pre-hearing conference session with a single arbitrator @ \$450.00/session	= \$ 450.00
Pre-hearing conference: January 31, 2005 1 session	
Six (6) Hearing sessions @ \$750.00/session	= \$ 4,500.00
Hearings: March 29, 2005 2 sessions	
March 30, 2005 2 sessions	
March 31, 2005 2 sessions	

Total Forum Fees	= \$ 4,950.00
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The Panel assessed \$ 4,950.00 of the forum fees to Respondent Morgan Stanley DW Inc.

Fee Summary

1. Claimants Paul Jinsup Choi and Susie Chungja Choi are charged jointly and severally with the following fees and costs:

Initial Filing Fee	= \$ 225.00
<u>Less payments</u>	= \$ (1,350.00)
Refund Due Claimants	= \$ (1,125.00)

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

Member Fees	= \$ 3,550.00
Adjournment Fee	= \$ 750.00
Forum Fees	= \$ 4,950.00
Total Fees	= \$ 9,250.00
<u>Less payments</u>	= \$ (6,000.00)
Balance Due NASD Dispute Resolution	= \$ 3,250.00

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

Robert F. Saint-Aubin	-	Public Arbitrator, Presiding Chair
Lynne Susan Bassis	-	Public Arbitrator
Robert D. Sussin	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures



Robert F. Saint-Aubin
Chair, Public Arbitrator

April 1, 2005
Signature Date

Lynne Susan Bassis
Public Arbitrator

Signature Date

Robert D. Sussin
Non-Public Arbitrator

Signature Date

4/1/05
Date of Service

ARBITRATION PANEL

Robert F. Saint-Aubin

- **Public Arbitrator, Presiding Chair**

Lynne Susan Bassis

- **Public Arbitrator**

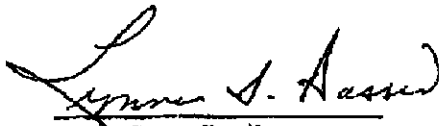
Robert D. Sussin

- **Non-Public Arbitrator**

Concurring Arbitrators' Signatures

Robert F. Saint-Aubin
Chair, Public Arbitrator

Signature Date



Lynne Susan Bassis
Public Arbitrator

4/1/05

Signature Date

Robert D. Sussin
Non-Public Arbitrator

Signature Date

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Date of Service

ARBITRATION PANEL

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- **Non-Public Arbitrator**

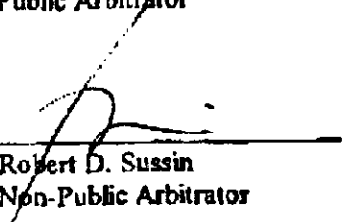
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Public Arbitrator

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Robert D. Sussin
Non-Public Arbitrator

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