

**Award**  
**NASD Dispute Resolution**

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In the Matter of the Arbitration Between:

Name of the Claimant

Ronald H. Kraus individually and on behalf of his IRA.

Case Number: 04-02880

Names of the Respondents

Morgan Stanley DW, Inc.

Troy Michael Elser

Hearing Site: Baltimore, Maryland

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

**REPRESENTATION OF PARTIES**

Claimant, Ronald H. Kraus individually and on behalf of his IRA, hereinafter referred to as "Claimant", was not represented by counsel and appeared at the hearing *pro se*.

Respondents, Morgan Stanley DW, Inc. ("Morgan Stanley") and Troy Michael Elser ("Elser"), hereinafter collectively referred to as "Respondents", were represented by Timothy E. DiDomenico, Esq., Greenberg Traurig, LLP, New York, New York.

**CASE INFORMATION**

Statement of Claim filed on April 19, 2004.

Claimant signed the Uniform Submission Agreement on April 13 2004.

Statement of Answer filed by Respondents on January 5, 2005.

Respondents did not file Uniform Submission Agreements.

**CASE SUMMARY**

Claimant asserted the following cause of action: that his account was handled recklessly and unsuitable investments were recommended for his account. The cause of action relates to investments in various unspecified securities.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted the following defenses, among others: the Statement of Claim fails to state a cause of action upon which relief may be granted; failure to mitigate damages; ratification; and comparative and/or contributory negligence.

**RELIEF REQUESTED**

Claimant in his Statement of Claim requested:

Compensatory Damages

\$48,579.00

Respondents in their Statement of Answer requested that the claim be dismissed in its entirety and that the Arbitrator award costs and expenses of this arbitration to Respondents.

**OTHER ISSUES CONSIDERED AND DECIDED**

Respondent Morgan Stanley and Elser did not file with NASD Dispute Resolution properly executed submissions to arbitration but are required to submit to arbitration pursuant to the NASD Code of Arbitration Procedure (the "Code") and, having answered the claim, appeared and testified at the hearing, are bound by the determination of the Arbitrator on all issues submitted.

At the hearing, Respondent Elser requested that the Arbitrator recommend the expungement of all reference to this matter from his file maintained by NASD Central Registration Depository ("CRD").

The parties have 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, the testimony and evidence presented at the hearing, the Arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

1. Claimant's claims against Respondents are dismissed with prejudice in their entirety;
2. The Arbitrator recommends the expungement of all reference to the above-captioned arbitration from Respondent Elser's registration record maintained by the Central Registration Depository ("CRD"), with the understanding that, pursuant to NASD Notice to Members 04-16, Respondent Elser must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive;

Unless specifically waived in writing by the NASD, parties seeking judicial confirmation of an arbitration award containing expungement relief must name NASD as an additional party and serve NASD with all appropriate documents;

Pursuant to Rule 2130, the arbitrator has made the following affirmative finding of fact: the claim, allegation or fact is clearly erroneous;

3. The parties shall bear their respective costs, including attorneys' fees, except as Fees are specifically addressed below; and
4. Any and all relief not specifically addressed herein is denied in its entirety.

**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 = \$ 175.00

Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firms that employed the associated person(s) at the time of the events giving rise to the dispute. Accordingly, Morgan Stanley is a party.

Member surcharge	= \$ 875.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$1,000.00
Total Member Fees	= \$2,625.00

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

November 8-9, 2005 adjournment requested by Respondents = \$ 450.00

Forum Fees and Assessments

The Arbitrator has assessed forum fees for each session conducted. A session is any meeting between the parties and the arbitrator(s), including a pre-hearing conference with the arbitrator(s), that lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) Pre-hearing session with a single arbitrator @ \$450.00	= \$ 450.00
Pre-hearing conference: April 5, 2005 1 session	
Two (2) Hearing sessions with a single arbitrator @ \$450.00	= \$ 900.00
Hearing Date: November 29, 2005 2 sessions	
Total Forum Fees	= \$1,350.00

1. The Arbitrator has assessed \$675.00 of the forum fees to Claimant.
2. The Arbitrator has assessed \$675.00 of the forum fees jointly and severally to Respondents.

SEE SUMMARY

1. Claimant is assessed and shall pay the following fees:

Initial Filing Fee	= \$ 175.00
Forum Fees	= \$ 675.00
Total Fees	= \$ 850.00
Less payments	= \$ 625.00
Balance Due NASD Dispute Resolution	= \$ 225.00

2. Respondent Morgan Stanley is assessed and shall pay the following fees:
- |                                     |              |
|-------------------------------------|--------------|
| Member Fees                         | = \$2,625.00 |
| Total Fees                          | = \$2,625.00 |
| Less payments                       | = \$2,625.00 |
| Balance Due NASD Dispute Resolution | = \$ 00.00   |
4. Respondents are jointly and severally assessed and shall pay the following fees:
- |                                     |              |
|-------------------------------------|--------------|
| Forum Fees                          | = \$ 675.00  |
| Adjournment Fees                    | = \$ 450.00  |
| Total Fees                          | = \$1,125.00 |
| Less payments                       | = \$ 00.00   |
| Balance Due NASD Dispute Resolution | = \$1,125.00 |

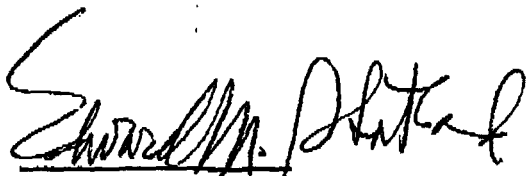
All balances are payable to NASD Dispute Resolution and are due upon receipt pursuant to Rule 10330(g) of the Code.

SOLE ARBITRATOR

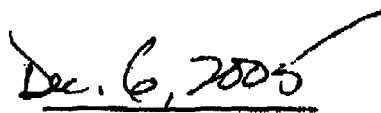
Edward M. Statland, Esq.

- Sole Public Arbitrator,

Sole Arbitrator's Signature



Edward M. Statland, Esq.  
Sole Public Arbitrator



Signature Date

12/6/05