

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

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CASE: 04-03345

Coralia Meruleo, Claimant v. Morgan Stanley DW, Inc. and William S. Lardin, Respondents

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**ATTORNEYS:**

For Claimant, Coralia Meruleo, ("Claimant"), appeared David M. Kassell, Esq. of The Roth Law Firm, PLLC, New York, NY.

Respondents, Morgan Stanley DW, Inc. and William S. Lardin, (collectively "Respondents"), appeared through in-house counsel, Harrison A. Kaufmann, New York, NY.

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

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**DATE FILED:** April 28, 2004.

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**CASE SUMMARY:** Claimant alleged that Respondents breached their fiduciary duty by failing to disclose risks associated with the investment strategies employed by Respondents and engaging Claimant's account in unsuitable transactions. Claimant further alleged that Respondents misrepresented or omitted material facts, which prevented Claimant from making informed decisions regarding the purchase and sale of specific securities and certain investment strategies. Claimant additionally alleged that Respondent Morgan Stanley DW Inc. is liable under the doctrine of respondeat superior for the negligent conduct of its representative. Claimant alleged as a result of Respondents' actions, her account suffered financial losses.

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**Claim Data**

Claim: \$25,000.00

Punitive: Unspecified

Attorney Fees: Unspecified

Pre-judgment Interest: Unspecified

Post-judgment Interest: Unspecified

Filing Fees: Unspecified

Other: Unspecified

**Award Data**

Award: \$.00

Punitive: \$.00

Attorney Fees: \$.00

Pre-judgment Interest: \$.00

Post-judgment Interest: \$.00

Filing Fees: \$212.50

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) All requests for attorney fees are denied. 3) All requests for punitive damages are denied. 4) All requests for interest are denied. 5) All other relief requests are denied. 6) NASD Dispute Resolution shall retain the \$425.00 filing fee that the Claimant deposited previously. 7) Respondents are jointly and severally liable and shall pay Claimant \$212.50 as reimbursement of one-half of the filing fee.

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

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Award 04-03345

**ARBITRATOR**

Robert Bennett - Sole Public Arbitrator

**AFFIRMATION**

I, Robert Bennett, 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.

Robert Bennett  
Robert Bennett

12/29/04  
Signature Date

January 6, 2005  
Date of Service (For NASD-DR office use only)

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

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In the Matter of the Arbitration Between:

Michael Jay Weissberg (Claimant) v. TD Waterhouse Investor Services, Inc. (Respondent)

Case Number: 04-03347

Hearing Site: New York, New York

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Nature of the Dispute: Associated Person vs. Member.

**REPRESENTATION OF PARTIES**

Claimant Michael Jay Weissberg ("Weissberg") hereinafter referred to as "Claimant" appeared *pro se*.

Respondent TD Waterhouse Investor Services, Inc. ("TD Waterhouse") hereinafter referred to as "Respondent": Jonathan Stoler, Esq., Kelley Drye & Warren, LLP, New York, NY.

**CASE INFORMATION**

Statement of Claim filed on or about: May 7, 2004.

Letter Opposing Respondent's Motion to Dismiss filed by Claimant on or about: September 3, 2004.

Claimant signed the Uniform Submission Agreement: April 16, 2004.

Statement of Answer and Motion to Dismiss filed by Respondent on or about: August 26, 2004.

Respondent signed the Uniform Submission Agreement: August 23, 2004.

**CASE SUMMARY**

Claimant asserted the following cause of action: discrimination based on religion.

Unless specifically admitted in its Answer, Respondent denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

**RELIEF REQUESTED**

Claimant requested punitive damages in the amount of \$1,500,000.00.

Respondent requested that the Statement of Claim be dismissed in its entirety; costs, disbursements and reasonable attorneys' fees; and such other and further relief which may be

necessary and proper.

### **OTHER ISSUES CONSIDERED AND DECIDED**

A telephonic pre-hearing conference was held on February 15, 2005 to hear oral argument regarding Respondent's motion to dismiss. After due deliberation, the Panel determined to grant Respondent's motion to dismiss.

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, and the testimony and evidence presented at the pre-hearing conference, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Claimant's claim alleging religious discrimination is dismissed in its entirety.
2. Any and all relief not specifically addressed herein, including punitive damages, is denied.

### **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 = WAIVED

#### **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 events giving rise to the dispute. Accordingly, TD Waterhouse Investor Services, Inc. is a party.

Member surcharge	= \$2,800.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$5,000.00

#### **Forum Fees and Assessments**

The Panel has assessed forum fees for each session conducted. A 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:

Three (3) Pre-hearing sessions with Panel @ \$1,200.00	= \$3,600.00
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Pre-hearing conferences:      November 24, 2004      1 session  
   January 24, 2005      1 session  
   February 15, 2005      1 session

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Total Forum Fees = \$3,600.00

1. The Panel has assessed \$1,800.00 of the forum fees against Claimant.
2. The Panel has assessed \$1,800.00 of the forum fees against Respondent.

**Fee Summary**

1. Claimant is solely liable for:

<u>Forum Fees</u>	<u>= \$ 1,800.00</u>
Total Fees	= \$ 1,800.00
<u>Less payments</u>	<u>= \$ 0.00</u>
Balance Due NASD Dispute Resolution	= \$ 1,800.00

2. Respondent is solely liable for:

Member Fees	= \$ 8,550.00
<u>Forum Fees</u>	<u>= \$ 1,800.00</u>
Total Fees	= \$10,350.00
<u>Less payments</u>	<u>= \$13,550.00</u>
Refund Due Respondent	= \$ 3,200.00

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

ARBITRATION PANEL

Walter M. Schackman, Esq.  
Howard Breindel, Esq.  
Jill L. Gross, Esq.

• Public Arbitrator, Presiding Chairperson  
- Public Arbitrator  
- Public Arbitrator

Consenting Arbitrators' Signatures

I, the undersigned arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument which is my award.

Walter M. Schackman  
Walter M. Schackman, Esq.  
Public Arbitrator, Presiding Chairperson

2/25/05  
Signature Date

Howard Breindel, Esq.  
Howard Breindel, Esq.  
Public Arbitrator

Signature Date

Jill L. Gross, Esq.  
Jill L. Gross, Esq.  
Public Arbitrator

Signature Date

February 25, 2005  
Date of Service (For NASD Dispute Resolution use only)

NASD Dispute Resolution  
Arbitration No. 04-03347  
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**ARBITRATION PANEL**


Walter M. Schackman, Esq.  
Howard Breindel, Esq.  
Jill I. Gross, Esq.

- Public Arbitrator, Presiding Chairperson  
- Public Arbitrator  
- Public Arbitrator

**Concurring Arbitrators' Signatures**

I, the undersigned arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument which is my award.

Walter M. Schackman, Esq.  
Public Arbitrator, Presiding Chairperson

  
Howard Breindel, Esq.  
Public Arbitrator

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Signature Date

2/23/05  
\_\_\_\_\_  
Signature Date

Jill I. Gross, Esq.  
Public Arbitrator

\_\_\_\_\_  
Signature Date

February 25, 2005

\_\_\_\_\_  
Date of Service (For NASD Dispute Resolution use only)