

**Award  
NASD Dispute Resolution**

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In the Matter of the Arbitration Between:

Name of the Claimant  
Erma Bianco

Case Number: 04-05166

Names of the Respondents  
Morgan Stanley DW, Inc.  
Ty Matthew Wilkinson

Hearing Site: Philadelphia, PA

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

**REPRESENTATION OF PARTIES**

Claimant, Erma Bianco, hereinafter referred to as "Claimant", was represented by Christopher A. Ferro, Esq., Griest, Himes, Herrold, Shaumann, LLP, York, Pennsylvania.

Respondents, Morgan Stanley, DW, Inc. ("Morgan Stanley") and Ty Matthew Wilkinson "Wilkinson"), hereinafter collectively referred to as "Respondents", were represented by Steve Kobre, Esq., Kobre & Kim, LLP, New York, New York.

**CASE INFORMATION**

Statement of Claim filed on July 19, 2004.

Claimant signed the Uniform Submission Agreement on July 14, 2004.

Statement of Answer filed by Respondents on September 16, 2004.

A representative of Respondent Morgan Stanley signed the Uniform Submission Agreement on November 9, 2004.

Respondent Wilkinson signed the Uniform Submission Agreement on November 9, 2004.

**CASE SUMMARY**

In the Statement of Claim, Claimant asserted the following causes of action, among others: suitability, failure to supervise, breach of fiduciary duty, and negligence. The causes of action relate the purchase and sale of 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: estoppel, ratification, authorization, failure to mitigate damages, and failure to state a claim upon which relief may be granted.

### **RELIEF REQUESTED**

Claimant in the Statement of Claim requested:

Compensatory Damages	\$ 500,000.00
Punitive Damages	\$ 1,000,000.00
Attorneys' Fees	amount unspecified
Other Costs	amount unspecified

Respondents requested that the Statement of Claim be dismissed and that they be awarded costs and expenses of the arbitration.

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

At the hearing on the merits, the Parties fully and finally settled all claims by and between them.

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, the testimony and evidence presented at the hearing, the Arbitration Panel (the "Panel") has decided in full and final resolution of the issues submitted for determination as follows:

1. The parties have amicably resolved their differences and have requested this Award;
2. Claimant's withdrawal of the claims is accepted and Respondents are dismissed from this matter with prejudice;
3. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Wilkinson's registration records maintained by the Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notices to Members 04-16, Respondent Wilkinson 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 of the NASD Code, the arbitration panel has made the following affirmative findings of fact:

The registered person was not involved in the alleged investment-related sales practice violation, forgery, theft, misappropriation, or conversion of funds.

4. The parties shall bear their respective costs, including attorneys' fees, except as Fees are specifically addressed below; and
5. Any and all relief not specifically addressed herein, including punitive damages, 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	= \$ 500.00
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#### **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, Respondent Morgan Stanley 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 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 Panel @ \$ 1,200.00	= \$ 1,200.00
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Pre-hearing conference: December 20, 2004 1 session

One (1) Hearing session @ \$ 1,200.00	= \$ 1,200.00
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Hearing Date: May 24, 2005 1 session

Total Forum Fees	= \$ 2,400.00
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1. The Panel has assessed \$ 600.00 of the forum fees to Claimant.
2. The Panel has assessed \$ 1,800.00 of the forum fees jointly and severally to Respondents.

### **Fee Summary**

1. Claimant is assessed and shall pay:

Initial Filing Fee	= \$ 500.00
Forum Fees	= \$ 600.00

Total Fees	= \$	1,100.00
Less payments	= \$	1,700.00
Refund Due Claimant	= \$	600.00

## 2. Respondent Morgan Stanley is assessed and shall pay:

Member Fees	= \$	8,550.00
Total Fees	= \$	8,550.00
Less payments	= \$	8,550.00
Balance Due NASD Dispute Resolution	= \$	0.00

## 3. Respondents are jointly and severally assessed and shall pay:

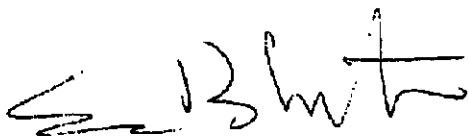
Forum Fees	= \$	1,800.00
Total Fees	= \$	1,800.00
Less payments	= \$	1,350.00
Balance Due NASD Dispute Resolution	= \$	450.00

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

**ARBITRATION PANEL**

Edward Blumstein, Esq.	-	Public Arbitrator, Presiding Chairperson
Cynthia H. Plishtin	-	Public Arbitrator, Panelist
Glenn L. Nobel	-	Non-Public Arbitrator, Panelist

Concurring Arbitrators' Signatures



Edward Blumstein, Esq.  
Public Arbitrator, Presiding Chairperson

5/26/05

Signature Date

Cynthia H. Plishtin  
Public Arbitrator, Panelist

Signature Date

Glenn L. Nobel  
Non-Public Arbitrator, Panelist

Signature Date

May 26, 2005

Date of Service (For NASD Dispute Resolution office use only)

**Concurring Arbitrators' Signatures**

**Edward Blumstein, Esq.**  
**Public Arbitrator, Presiding Chairperson**

**Signature Date**

*Cynthia H. Plishtin*  
Cynthia H. Plishtin  
Public Arbitrator, Panelist

5/25/05  
Signature Date

**Glenn L. Nobel**  
Non-Public Arbitrator, Panelist

**Signature Date**

May 26, 2005  
Date of Service (For NASD Dispute Resolution office use only)

**Concurring Arbitrators' Signatures**

Edward Blumstein, Esq.  
Public Arbitrator, Presiding Chairperson

Signature Date

Cynthia H. Plishtin  
Public Arbitrator, Panelist

Signature Date

  
Glenn L. Nobel  
Non-Public Arbitrator, Panelist

MAY 25, 2005  
Signature Date

May 26, 2005  
Date of Service (For NASD Dispute Resolution office use only)