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

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In the Matter of the Arbitration Between:

Names of the Claimants

Michael L. Steinberg and Miriam F. Steinberg

Case Number: 04-06111

Names of the Respondents

Morgan Stanley DW Inc.  
Jason Gionet

Hearing Site: Orlando, Florida

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

**REPRESENTATION OF PARTIES**

For Michael L. Steinberg and Miriam F. Steinberg, hereinafter collectively referred to as "Claimants": Robert Dyer, Esq., Allen, Dyer, Doppelt, Milbrath & Gilchrist, P.A., Orlando, Florida.

For Morgan Stanley DW Inc. ("Respondent MSDW") and Jason Gionet ("Respondent Gionet"), hereinafter collectively referred to as "Respondents": Doreen S. Young, Esq., Morgan Stanley DW Inc., Sarasota, Florida.

**CASE INFORMATION**

Statement of Claim filed on or about: August 27, 2004.

Claimants signed the Uniform Submission Agreements: August 8, 2004.

Statement of Answer filed by Respondents on or about: October 15, 2004.

Respondent MSDW signed the Uniform Submission Agreement: October 15, 2004.

Respondent Gionet signed the Uniform Submission Agreement: October 15, 2004.

**CASE SUMMARY**

Claimants asserted the following causes of action: violation of Chapter 517 of the Florida Statutes; violation of the Securities Act of 1933; negligence; negligent supervision; and, breach of fiduciary duty. The causes of action relate to the purchase of Muniyield Florida and Miniholding Florida Insured funds in Claimants' account.

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

**RELIEF REQUESTED**

Claimants requested compensatory damages in the amount of \$19,161.00, attorneys' fees and costs.

Respondents requested that Claimants' claims be denied in their entirety and the expungement of this matter from Respondent Gionet's NASD Central Registration ("CRD") record.

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

On or about February 9, 2005, Claimants filed with NASD Dispute Resolution ("NASD") a withdrawal of their claims under Chapter 517 of the Florida Statutes and the Securities Act of 1933.

On or about July 2, 2005, the Arbitrator issued an Order stating that, pursuant to the parties' stipulation, the Arbitrator would render a decision of this matter on the papers following submission by the parties of all evidence and legal briefs in summary form.

### **AWARD**

After considering the pleadings and the evidence and legal briefs submitted by the parties, the Arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

Respondents are jointly and severally liable and shall pay to Claimants compensatory damages in the amount of \$19,160.51, plus interest at a rate of 7% per annum from January 9, 2004 through August 22, 2005.

Any and all claims for relief not specifically addressed herein, including Claimants' request for attorneys' fees, are denied.

### **FEES**

Pursuant to the NASD Code of Arbitration Procedure (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	= \$125.00
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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(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute. Accordingly, MSDW is a member firm and a party.

Member surcharge	= \$425.00
Total Member Fees	= \$425.00

#### **Adjournment Fees**

Adjournments granted during these proceedings for which fees were assessed:

No adjournment fees were incurred in this matter.

### **Three-Day Cancellation Fees**

Fees apply when a hearing on the merits is postponed or settled within three business days before the start of a scheduled hearing session:

No injunctive relief fees were incurred in this matter.

### **Injunctive Relief Fees**

Injunctive relief fees are assessed to each member or associated person who files for a temporary injunction in court. Parties in these cases are also assessed arbitrator travel expenses and costs when an arbitrator is required to travel outside his or her hearing location and additional arbitrator honoraria for the hearing for permanent injunction. These fees, except the injunctive relief surcharge, are assessed equally against each party unless otherwise directed by the Arbitrator.

No injunctive relief fees were incurred in this matter.

### **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:

Three (3) Pre-hearing sessions with the Arbitrator @ \$450.00	= \$1,350.00
Pre-hearing conferences: March 30, 2005	1 session
June 28, 2005	1 session
August 19, 2005	1 session

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Total Forum Fees	= \$1,350.00
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The Arbitrator assessed the total forum fees of \$1,350.00 to Respondents, jointly and severally.

### **Administrative Costs**

Administrative costs are expenses incurred due to a request by a party for special services beyond the normal administrative services. These include, but not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

No administrative costs were incurred in this matter.

### **Fee Summary**

Claimants are jointly and severally liable for:

Initial Filing Fee	= \$ 125.00
Total Fees	= \$ 125.00
Less payments	= \$ 125.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondent MSDW is solely liable for:

<u>Member Fees</u>	= \$ 425.00
<u>Total Fees</u>	= \$ 425.00
<u>Less payments</u>	= \$ 425.00
<u>Balance Due NASD Dispute Resolution</u>	= \$ 0.00

Respondents are jointly and severally liable for:

<u>Forum Fess</u>	= \$1,350.00
<u>Total Fees</u>	= \$1,350.00
<u>Less payments</u>	= \$ 0.00
<u>Balance Due NASD Dispute Resolution</u>	= \$1,350.00

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

**ARBITRATOR**

A. Michelle Jernigan, J.D.

Public Arbitrator

**Arbitrator's Signature**

/s/  
A. Michelle Jernigan, J.D.  
Public Arbitrator

August 31, 2005  
Signature Date

August 31, 2005  
Date of Service (For NASD Dispute Resolution office use only)

Respondent MSDW is solely liable for:

<u>Member Fees</u>	= \$ 425.00
<u>Total Fees</u>	= \$ 425.00
<u>Less payments</u>	= \$ 425.00
<u>Balance Due NASD Dispute Resolution</u>	= \$ 0.00

Respondents are jointly and severally liable for:

<u>Forum Fees</u>	= \$1,350.00
<u>Total Fees</u>	= \$1,350.00
<u>Less payments</u>	= \$ 0.00
<u>Balance Due NASD Dispute Resolution</u>	= \$1,350.00

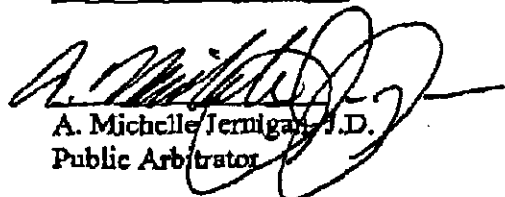
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ARBITRATOR

A. Michelle Jernigan, J.D.

Public Arbitrator

Arbitrator's Signature

  
A. Michelle Jernigan, J.D.  
Public Arbitrator

8/31/05  
Signature Date

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