

NASD DISPUTE RESOLUTION AWARD
NASD DISPUTE RESOLUTION

CASE: 04-07021

Elissa Leif and David Nather JT TEN and Elissa Leif IRA, Claimants v. Morgan Stanley DW, Inc., Lisa Kittner, Erik Penney, and Dennis Baxter, II, Respondents

ATTORNEYS:

Claimants Elissa Leif and David Nather JT TEN and Elissa Leif IRA (collectively "Claimants") appeared *pro se* through Elissa Leif, Silver Spring, MD.

For Respondents Morgan Stanley DW, Inc., Lisa Kittner, Erik Penney, and Dennis Baxter, II (collectively "Respondents") appeared Alex McNeil, Esq., in-house counsel, Morgan Stanley DW, Inc., Purchase, NY.

NATURE OF DISPUTE: Customers v. Member and Associated Persons.

DATE FILED: October 4, 2004.

CASE SUMMARY: Claimants alleged that Respondents breached their fiduciary duties by placing Claimants in the TEKBX fund, investments in B shares, and the WRAP program for Respondents' benefits, placed trades without Claimants' knowledge or authorization, and that Morgan Stanley DW, Inc. failed to properly supervise Respondents Lisa Kittner, Erik Penney, and Dennis Baxter, II. Claimants maintained that due to Respondents' actions, the accounts suffered losses.

Claim Data

Claim: \$3,912.00
Punitive: \$5,000.00
Interest: Unspecified
Filing Fees: \$325.00
Cost: \$40.00

Award Data

Award: \$95.00
Punitive: \$0.00
Interest: \$0.00
Filing Fees: \$325.00
Cost: \$.00

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 Claimants against Respondents Lisa Kittner, Erik Penney, and Dennis Baxter, II, are dismissed in their entirety. 2) Respondent Morgan Stanley DW, Inc. is solely liable for and shall pay to Claimants \$95.00 for the account transfer fee. 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 \$325.00 filing fee that the Claimants deposited previously. 7) Respondent Morgan Stanley DW, Inc. is solely liable for and shall pay Claimants \$325.00 as reimbursement of the filing fee.

OTHER FEES: Pursuant to Rule 10333 of the Code, Respondent has paid to NASD Dispute Resolution the \$325.00 Member Surcharge previously invoiced.

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Award (K-07021)

Michael Fischetti

Sole Public Arbitrator

AFFIRMATION

I, Michael Fischetti, 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.

Michael Fischetti
Michael Fischetti

Mar. 16, 2005
Signature Date

April 5, 2005
Date of Service (For NASD-DR office use only)