

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

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In the Matter of the Arbitration Between:  
Chi Kwang Chiang and Julie T.S. Huang, Claimants v. Morgan Stanley DW Inc.,  
Howard H. Ye, Lin Hsieh, and Lily Li, Respondents

Case Number: 04-07414

Hearing Site: Los Angeles, California

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Nature of the Dispute: Customers v. Member and Associated Persons

**REPRESENTATION OF PARTIES**

For Claimants:

James A. Shalvoy, Esq.  
Law Offices of James A. Shalvoy  
Manhattan Beach, California

For Respondents:

Brian Mulherin, Esq.  
Jones, Bell, Abbott, Fleming &  
Fitzgerald L.L.P.  
Los Angeles, California

**CASE INFORMATION**

Statement of Claim filed: October 21, 2004

Claimants' Joint Uniform Submission Agreement signed: October 18, 2004

Joint Statement of Answer filed by Respondents: January 18, 2005

Respondent Morgan Stanley DW Inc.'s Uniform Submission Agreement signed:  
November 19, 2004

Respondent Howard H. Ye's Uniform Submission Agreement signed: November 28,  
2004

Respondent Lin Hsieh's Uniform Submission Agreement signed: November 23, 2004

Respondent Lily Li's Uniform Submission Agreement signed: November 25, 2004

### **CASE SUMMARY**

Claimants alleged that Respondent Howard H. Ye engaged in unsuitable and unauthorized trading in unspecified securities in their account. Claimants further alleged that, after Respondents Lin Hsieh and Lily Li were assigned to their accounts, Claimants were not advised of that fact. Claimants asserted claims for breach of contract, negligence, breach of fiduciary duty, and fraud involving unspecified securities.

Respondents denied the allegations of wrongdoing set forth in Claimants' Statement of Claim.

### **RELIEF REQUESTED**

Claimants requested \$250,000.00 in compensatory damages, plus disgorgement of commissions, management fees, transaction costs, attorneys' fees, forum fees, expert fees, interest, and punitive damages.

Respondents requested dismissal of the Claimants' Statement of Claim in its entirety and expungement of this matter from the CRD records of Respondents Howard H. Ye, Lin Hsieh, and Lily Li.

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

On January 14, 2005, Claimants and Claimants' counsel signed a Waiver Agreement expressly waiving any and all rights and benefits under California Civil Code Section 1542 and the California Ethical Standards for Neutral Arbitrators.

Pursuant to the Code of Arbitration Procedure IM-10100, the waiver of the Claimants shall constitute and operate as a waiver for all member firms and associated persons (including terminated or otherwise inactive member firms or associated persons) against whom the Claim has been filed.

On January 25, 2005, Respondents filed a Motion to Dismiss Claims Against Lily Li and Lin Hsieh and For Order of Expungement. On February 18, 2005, Claimants filed an Opposition to Motion to Dismiss Claims Against Lily Li and Lin Hsieh and For Order of Expungement. On March 15, 2005, Respondents filed a Reply in Support of Motion to Dismiss Claims Against Lily Li and Lin Hsieh and For Order of Expungement. On March 31, 2005 and April 22, 2005, the Panel held a telephonic pre-hearing conference with the parties to hear oral argument on the motion. Thereafter, the Panel issued an Order for Dismissal and Expungement, which stated the following:

IT IS ORDERED that the motion be, and hereby is, GRANTED and that all claims against Respondents Lily Li and Lin Hsieh be DISMISSED WITH PREJUDICE.

IT IS FURTHER ORDERED that all references to this claim should be EXPUNGED from the records of Lily Li and Lin Hsieh at the Central Registration Depository, as this Arbitration Panel finds that the claims against them were factually impossible and clearly erroneous, and those registered persons were not involved in any investment related sales practice violations or other alleged claims set forth in the Statement of Claim.

On May 2, 2006, pursuant to a stipulated resolution, Claimants and Respondents agreed that all claims against Respondents Howard H. Ye and Morgan Stanley DW Inc. shall be dismissed.

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, evidence offered at the hearing on Respondents' motion to dismiss the claims against Lily Li and Lin Hsieh, the preceding stipulation of the parties, and the parties' request for this Stipulated Award, the Panel decided in full and final resolution of the issues submitted for determination as follows:

1. Claimants and Respondents have entered into a confidential settlement agreement.
2. All claims against Respondents Lily Li and Lin Hsieh are dismissed with prejudice.
3. The Panel notes the stipulation between Claimants and Respondents Morgan Stanley DW Inc. and Howard H. Ye that all remaining claims asserted by the Claimants against them have been resolved.
4. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Lin Hsieh's registration records maintained by the Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notices to Members 04-16, Respondent Lin Hsieh 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 Arbitration Panel has made the following affirmative findings of fact:

The claim, allegation, or information is factually impossible or clearly erroneous; and

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

5. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Lily Li's registration records maintained by the CRD, with the understanding that pursuant to NASD Notices to Members 04-16, Respondent Lily Li 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 Arbitration Panel has made the following affirmative findings of fact:

The claim, allegation, or information is factually impossible or clearly erroneous; and

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

6. Each party shall bear its own costs, including, but not limited to, filing fees, forum fees, member fees, expert witness fees, and attorneys' fees, except that, pursuant to the stipulation of the parties, Claimants shall bear all NASD charges (including, without limitation, cancellation fees and forum fees) incurred from May 2, 2006 forward.
7. All other relief requested and not expressly granted is hereby denied.

## **FEES**

Pursuant to the Code, the following fees are assessed:

### **Filing Fees**

NASD Dispute Resolution received or will collect the non-refundable filing fees for each claim as follows:

Initial claim filing fee = \$ 300.00

### **Member Fees**

Member fees are assessed to each member firm that is either a party in the matter or an employer of a respondent associated person at the time of the events which gave rise to the dispute, claim, or controversy. Accordingly, the member firm Morgan Stanley DW Inc. is a party and the following fees are assessed:

Member Surcharge	= \$ 1,700.00
Pre-Hearing Process Fee	= \$ 750.00
<u>Hearing Process Fee</u>	<u>= \$ 2,750.00</u>
<b>Total Member Fees</b>	<b>= \$ 5,200.00</b>

### **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:

May 2-5, 2006 hearing dates adjourned = \$ 300.00

Pursuant to the parties' stipulation, \$300.00 of the Three-Day Cancellation Fees are assessed jointly and severally to Claimants.

### **Forum Fees and Assessments**

The Panel assessed a forum fee for each pre-hearing conference or hearing session conducted. A pre-hearing conference and hearing session is any meeting between the parties and the Chair/Panel. The following fees are assessed:

3 Pre-hearing conference sessions with the Panel @ \$1,125.00/session = \$ 3,375.00

Pre-hearing conferences:	March 17, 2005	1 session
	March 31, 2005	1 session
	April 22, 2005	1 session

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**Total Forum Fees** = **\$ 3,375.00**

1. The Panel assessed \$1,687.50 of the forum fees jointly and severally to Claimants.
2. The Panel assessed \$1,687.50 of the forum fees jointly and severally to Respondents.

**Fee Summary**

1. Claimants are charged jointly and severally with the following fees and costs:

Initial Filing Fee	= \$ 300.00
Three-Day Cancellation Fees	= \$ 300.00
Forum Fees	= \$ 1,687.50
Total Fees	= \$ 2,287.50
Less payments	= \$(1,425.00)
<b>Balance Due NASD Dispute Resolution</b>	<b>= \$ 862.50</b>

2. Respondent Morgan Stanley DW Inc. is charged with the following fees and costs:

Member Fees	= \$ 5,200.00
Less payments	= \$(5,200.00)
<b>Balance Due NASD Dispute Resolution</b>	<b>= \$ 0.00</b>

3. Respondents are charged jointly and severally with the following fees and costs:

Forum Fees	= \$ 1,687.50
Less payments	= \$( 0.00)
<b>Balance Due NASD Dispute Resolution</b>	<b>= \$ 1,687.50</b>

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

**ARBITRATION PANEL**

Jan Frankel Schau	-	Public Arbitrator, Presiding Chair
Robert B. Hansohn	-	Public Arbitrator
Karen J. Burneff	-	Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

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Jan Frankel Schau  
Chair, Public Arbitrator

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

\_\_\_\_\_  
Robert B. Hansohn  
Public Arbitrator

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

\_\_\_\_\_  
Karen J. Burneff  
Non-Public Arbitrator

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

6/19/06  
Date of Service

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Jan Frankel Schau  
Chair, Public Arbitrator

June 14, 2006  
Signature Date

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Robert B. Hansohn  
Public Arbitrator

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

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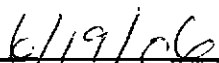
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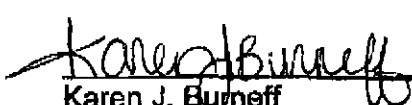
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Karen J. Burneff  
Non-Public Arbitrator

6/16/06  
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Signature Date

6/19/06  
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Date of Service