

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

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In the Matter of the Arbitration Between:

Name of the Claimant  
Morgan Stanley DW, Inc.

Case Number: 04-07440

Name of the Respondent  
Ray L. Dinkel

Hearing Site: Pittsburgh, PA

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Nature of the Dispute: Member vs. Associated Person.

**REPRESENTATION OF PARTIES**

Claimant, Morgan Stanley DW, Inc., hereinafter referred to as "Claimant", was represented by Ronald P. Kane, Esq., Kane & Fischer Ltd., Chicago, Illinois.

Respondent, Ray L. Dinkel, hereinafter referred to as "Respondent", was not represented by counsel and appeared *pro se*.

**CASE INFORMATION**

Statement of Claim filed on October 22, 2004.

A representative of Claimant executed the Uniform Submission Agreement on October 12, 2004. Respondent did not file a Statement of Answer or Uniform Submission Agreement with NASD Dispute Resolution.

On November 17, 2005 Claimant filed a Motion to Bar Respondent from Presenting any Facts or Defenses at the Hearing.

Respondent filed a Response to the Motion to Bar on December 8, 2005.

**CASE SUMMARY**

Claimant asserted the following cause of action: failure to comply with the terms of promissory notes and Respondent's breach of express and implied contractual duties to Claimant.

**RELIEF REQUESTED**

Claimant in its Statement of Claim requested:

Compensatory Damages	\$75,533.92
Interest	amount unspecified
Attorneys' Fees	amount unspecified
Other Costs	amount unspecified

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

Respondent did not file with NASD Dispute Resolution, a properly executed submission to arbitration but is required to submit to arbitration pursuant to the NASD Code of Arbitration Procedure ("the "Code"), and having answered the claim, appeared and testified at the hearing, is bound by the determination of the Panel on all issues submitted.

By Order dated December 23, 2005 the Panel denied Claimant's Motion to Bar.

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

1. Respondent is liable to and shall pay to Claimant compensatory damages in the amount of \$75,283.92, plus accrued interest in the amount of \$15,646.73;
2. Respondent is liable to and shall pay to Claimant attorneys' fees in the amount of \$12,183.00. Authority for the award of attorneys' fees derives from the terms of three (3) Promissory Notes executed by Respondent;
3. Respondent is liable to and shall pay to Claimant costs in the amount of \$6,048.70;
4. The parties shall bear any other respective costs, except as Fees are specifically addressed below; and
5. Any and all relief not specifically addressed herein 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	= \$1,000.00
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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 firms that employed the associated person(s) at the time of the events giving rise to the dispute. Accordingly, Respondent Morgan Stanley is a party.

Member surcharge	= \$1,100.00
Pre-hearing process fee	= \$ 750.00

Hearing process fee	= \$1,700.00
Total Member Fees	= \$3,550.00

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 @ \$750.00	= \$
750.00	
Pre-hearing conference: April 27, 2005 1 session	
Two (2) Hearing sessions @ \$750.00	= \$1,500.00
Hearing Date: January 17, 2005 2 sessions	
Total Forum Fees	= \$2,250.00

1. The Panel has assessed \$1,125.00 of the forum fees to Claimant.
2. The Panel has assessed \$1,125.00 of the forum fees to Respondent.

FEE SUMMARY

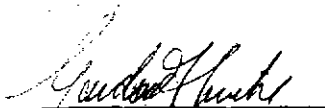
1. Claimant is assessed and shall pay the following fees:	
Initial Filing Fee	= \$1,000.00
Member Fees	= \$3,550.00
Forum Fees	= \$1,125.00
Total Fees	= \$5,675.00
Less payments	= \$5,300.00
Balance Due NASD Dispute Resolution	= \$ 375.00
2. Respondent is assessed and shall pay the following fees:	
Forum Fees	= \$1,125.00
Total Fees	= \$1,125.00
Less payments	= \$ 00.00
Balance Due NASD Dispute Resolution	= \$1,125.00

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

ARBITRATION PANEL

Gordon F. Linke	-	Non-Public Arbitrator, Presiding Chairperson
Bert Cliff	-	Non-Public Arbitrator, Panelist
Neil H. Alexander, JD, CFP	-	Non-Public Arbitrator, Panelist

Concurring Arbitrators' Signatures



Gordon F. Linke  
Non-Public Arbitrator, Presiding Chairperson

1/23/05  
Signature Date

Bert Cliff  
Non-Public Arbitrator, Panelist

Signature Date

Neil H. Alexander, JD, CFP  
Non-Public Arbitrator, Panelist

Signature Date

1/26/5  
Date of Service (For NASD Dispute Resolution office use only)

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Concurring Arbitrators' Signatures

Gordon F. Linke

Non-Public Arbitrator, Presiding Chairperson

Signature Date

Bert Cliff

Non-Public Arbitrator, Panelist

Signature Date

Neil H. Alexander, JD, CFP

Non-Public Arbitrator, Panelist

01/23/06

Signature Date

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

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*Original Signature  
Page*

Concurring Arbitrator's Signatures

NASD DISPUTE RESOLUTION  
MID-ATLANTIC REGION

JAN 24 2006

ARBITRATION  
WASHINGTON, DC

Gordon F. Linke  
Non-Public Arbitrator, Presiding Chairperson

Signature Date

Bert S. Cliff  
Bert Cliff  
Non-Public Arbitrator, Panelist

1-20-06  
Signature Date

Neil H. Alexander JD, CFP  
Non-Public Arbitrator, Panelist

Signature Date

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