

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Arlene Spitzer, Claimant v. Morgan Stanley DW Inc. and David Robert Lee,
Respondents

Case Number: 05-02676

Hearing Site: San Diego, California

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

REPRESENTATION OF PARTIES

For Claimant:

Leslie Schwaebe Akins, Esq.
Akins & Villavicencio, LLP
Carlsbad, California

For Respondents:

Anthony L. Valenzuela, Esq.
Morgan Stanley
San Francisco, California

CASE INFORMATION

Statement of Claim filed: May 19, 2005

Claimant's Uniform Submission Agreement signed: May 19, 2005

Joint Statement of Answer filed by Respondents: July 22, 2005

Respondent Morgan Stanley DW Inc.'s Uniform Submission Agreement signed: July
22, 2005

Respondent David Robert Lee's Uniform Submission Agreement signed: July 22, 2005

CASE SUMMARY

Claimant alleged breach of fiduciary duty, negligence, fraud, deceit, omission of material fact, fraudulent concealment, negligent misrepresentation, breach of the implied covenant of good faith and fair dealing, recommendation of unsuitable investments, unauthorized trading, violation of federal and California securities laws, violation of California's Civil Code and Business and Professions Code, violation of California's Elder Abuse/Dependent Adult Civil Protection Act, violation of NASD Rules, breach of written contract, and failure to supervise. Claimant's claims involved transactions in unspecified securities and transactions in B shares in unspecified mutual funds.

Respondents denied the allegations of wrongdoing set forth in the Claimant's Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

Claimant requested \$90,000.00 in compensatory damages, interest, statutory rescission of the investments sold to Claimant, punitive damages, and costs, including attorney's fees.

Respondents requested dismissal of the Claimant's Statement of Claim in its entirety and expungement of this matter from Respondent David Robert Lee's registration records maintained by the NASD Central Registration Depository ("CRD").

OTHER ISSUES CONSIDERED AND DECIDED

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

- 1) Claimant's claims are denied in their entirety.
- 2) The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent David Robert Lee's registration records maintained by the CRD, with the understanding that pursuant to NASD Notices to Members 04-16, Respondent David Robert Lee 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 finding of fact: the claim, allegation, or information is false.

- 3) The parties shall bear their respective costs, including attorney's fees.
- 4) All other relief requested and not expressly granted is 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	= \$ 225.00
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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 that 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	= \$ 1,100.00
Pre-Hearing Process Fee	= \$ 750.00
Hearing Process Fee	= \$ 1,700.00
Total Member Fees	= \$ 3,550.00

Forum Fees and Assessments

The Panel assessed forum fees for each session conducted or each decision rendered on a discovery-related motion on the papers. A session is any meeting between the parties and the arbitrator(s), including a pre-hearing conference with the arbitrator(s), that lasts four hours or less. Fees associated with these proceedings are:

1 Decision on discovery-related motions on the papers
with one arbitrator @ \$200.00 = \$ 200.00
Claimant submitted one discovery-related motion

1 Pre-hearing conference session with one arbitrator @ \$450.00/session = \$ 450.00
Pre-hearing conference: February 2, 2006 1 session

2 Pre-hearing conference sessions with the Panel @ \$750.00/session = \$ 1,500.00
Pre-hearing conferences: September 19, 2005 1 session
April 20, 2006 1 session

8 Hearing sessions @ \$750.00/session = \$ 6,000.00
Hearings: May 9, 2006 2 sessions
May 10, 2006 2 sessions
May 11, 2006 2 sessions
May 12, 2006 2 sessions

Total Forum Fees = **\$ 8,150.00**

1. The Panel assessed \$4,075.00 of the forum fees to Claimant.
2. The Panel assessed \$4,075.00 of the forum fees to Respondent Morgan Stanley DW Inc.

Fee Summary

1. Claimant is charged with the following fees and costs:

Initial Filing Fee	= \$ 225.00
Forum Fees	= \$ 4,075.00
Total Fees	= \$ 4,300.00
Less payments	= \$(975.00)
Balance Due NASD Dispute Resolution	= \$ 3,325.00

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

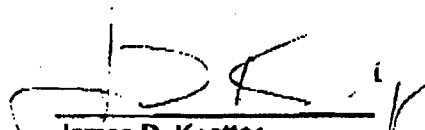
Member Fees	= \$ 3,550.00
Forum Fees	= \$ 4,075.00
Total Fees	= \$ 7,625.00
Less payments	= \$(3,550.00)
Balance Due NASD Dispute Resolution	= \$ 4,075.00

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

James D. Knotter	-	Public Arbitrator, Presiding Chair
Deanna M. Veitia	-	Public Arbitrator
James H. Fehlberg	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures


James D. Knotter
Chair, Public Arbitrator

5/15/06
Signature Date

Deanna M. Veitia
Public Arbitrator

Signature Date

James H. Fehlberg
Non-Public Arbitrator

Signature Date

Date of Service

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Public Arbitrator

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James D. Knotter
Chair, Public Arbitrator

Signature Date

Deanna M. Veitia
Public Arbitrator

Signature Date



James H. Fehlbeg
Non-Public Arbitrator

5/25/06

Signature Date

May 31, 2006

Date of Service