

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Joseph Raio & Jeanine Raio, JT TEN (Claimant) vs. Morgan Stanley DW, Inc. & Robert David Cohen (Respondents)

Case Number: 05-03015

Hearing Site: New York, New York

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

REPRESENTATION OF PARTIES

Claimants Joseph Raio ("Raio") & Jeanne Raio ("J. Raio"), JT TEN hereinafter referred to as "Claimants": Robert J. Cava, Esq., Robert J. Cava, P.C., West Babylon, NY.

Respondents Morgan Stanley DW, Inc. ("MSDW") and Robert David Cohen ("Cohen") hereinafter referred to as "Respondents": Christopher J. Gawley, Esq., Morgan Stanley DW, Inc., Purchase, NY.

CASE INFORMATION

Statement of Claim filed on or about: June 7, 2005.

Raio signed the Uniform Submission Agreement on or about: March 7, 2005.

J. Raio signed the Uniform Submission Agreement on or about: March 7, 2005.

Joint Statement of Answer filed by Respondents on or about: August 10, 2005.

MSDW signed the Uniform Submission Agreement on or about: September 2, 2005.

Cohen Signed the Uniform Submission Agreement on or about: August 31, 2005.

CASE SUMMARY

Claimants asserted the following causes of action: unsuitability. The causes of action relate to unspecified mutual funds.

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 \$79,977.22 with interest from April 10, 2000 to the date of the award, along with costs, and attorneys' fees.

Respondents requested dismissal of the Statement of Claim in its entirety, expungement of Cohen's CRD records, costs and expenses and such other and further relief as is just and proper.

OTHER ISSUES CONSIDERED AND DECIDED

At the hearing, Respondents made a Motion to Dismiss based upon the Statute of Limitations. After due deliberation, the Panel denied the Motion.

At the hearing, Respondents renewed their request for expungement of Cohen's CRD records. After due deliberation, the Panel denied the request.

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, and the post-hearing submissions, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Claimant's claims are denied in their entirety.
2. Respondent Cohen's request for expungement is denied.
3. Any and all relief not specifically addressed herein is denied.

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	= \$ 225.00
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Claimant's filing fee was initially waived. The Panel has determined to assess the filing fee.

Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm that employed the associated person at the time of the event giving rise to the dispute. Accordingly, Morgan Stanley DW, Inc. is a party.

Member surcharge	= \$ 1,100.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$ 1,700.00

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

June 6 – 8, 2006 adjournment by Respondents
MSDW's share

= \$ 750.00

Forum Fees and Assessments

The Panel has 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 arbitrators including a pre-hearing conference with the arbitrators that lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) Pre-hearing session with Panel @ \$750.00/session = \$ 750.00
Pre-hearing conference: October 21, 2005 1 session

Seven (7) Hearing sessions with Panel @ \$750.00/session = \$ 5,250.00
Hearing Dates: October 10, 2006 2 sessions
October 11, 2006 2 sessions
October 12, 2006 2 sessions
October 23, 2006 1 session

Total Forum Fees = \$ 6,000.00

1. The Panel has assessed \$3,000.00 of the forum fees to Claimants.
2. The Panel has assessed \$3,000.00 of the forum fees to MSDW.

FEE SUMMARY

1. Claimants are jointly and severally liable for:

Initial Filing Fee	= \$ 225.00
Forum Fees	= \$ 3,000.00
<hr/> Total Fees	<hr/> = \$ 3,225.00
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 3,225.00
2. Respondent Morgan Stanley DW, Inc. is solely liable for:

Member Fees	= \$ 3,550.00
Adjournment Fees	= \$ 750.00
Forum Fees Fees	= \$ 3,000.00
<hr/> Total Fees	<hr/> = \$ 7,300.00
Less payments	= \$ 3,550.00
Balance Due NASD Dispute Resolution	= \$ 3,750.00

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

ARBITRATION PANEL

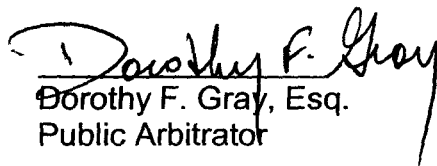
Linda Ashley, Esq.	-	Public Arbitrator, Presiding Chairperson
Dorothy F. Gray, Esq.	-	Public Arbitrator
Catherine I. Gulevich	-	Non-Public Arbitrator

I, the undersigned Arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument, which is my award.

Concurring Arbitrators' Signatures

Linda Ashley, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date



Dorothy F. Gray, Esq.
Public Arbitrator

Signature Date

Catherine I. Gulevich
Non-Public Arbitrator

Signature Date

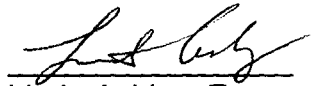
December 6, 2006
Date of Service (For NASD Dispute Resolution use only)

ARBITRATION PANEL

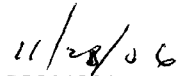
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Signature Date

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Public Arbitrator

Signature Date



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Non-Public Arbitrator

11/29/2006
Signature Date

December 6, 2006
Date of Service (For NASD Dispute Resolution use only)