

**Award
NASD Dispute Resolution**

In the Matter of the Arbitration Between:

Frank D. Newhouse (Claimant) v. Morgan Stanley DW, Inc. and Mark W. Kamann
(Respondents)

Case Number: 05-03423

Hearing Site: Columbus, Ohio

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

REPRESENTATION OF PARTIES

Claimant Frank D. Newhouse hereinafter referred to as "Claimant": C. William Brownfield, Esq., C. William Brownfield Attorney At Law, Williamsburg, VA.

Respondents Morgan Stanley DW, Inc. ("Morgan Stanley") and Mark W. Kamann ("Kamann") hereinafter collectively referred to as "Respondents": Joseph S. Simms, Esq., Ulmer Berne LLP, Cleveland, OH.

CASE INFORMATION

Statement of Claim filed on or about: July 1, 2005.

Claimant signed the Uniform Submission Agreement: July 25, 2005.

Statement of Answer filed by Respondent on or about: October 7, 2005.

Morgan Stanley signed the Uniform Submission Agreement: October 5, 2005.

Kamann did not submit a Uniform Submission Agreement.

CASE SUMMARY

Claimant asserted the following causes of action: violation of NASD rules, trading ahead, front running, and breach of contract. The causes of action relate to Cogent Systems stock.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

Claimant requested compensatory damages in the amount of \$80,000.00 plus pre-judgment and post-judgment interest at the rate of 10% per annum, punitive or

exemplary damages, filing fees, hearing fees, attorneys' fees, and such other and further relief as the Panel finds to be equitable and just.

Respondents requested dismissal of the Statement of Claim in its entirety, expungement of this matter from the CRD record of Respondent Kamann, and such further relief as the Panel deems just and proper.

OTHER ISSUES CONSIDERED AND DECIDED

Respondent Kamann did not file with NASD Dispute Resolution a properly executed Uniform Submission Agreement but is required to submit to arbitration pursuant to the Code, and having answered the claim, is bound by the determination of the Panel on all issues submitted.

Respondents submitted to the Panel a Motion to Dismiss Claimant's claims. The Panel reviewed all submissions and held a June 9, 2006 telephonic conference with the parties to hear oral arguments on the Motion to Dismiss. After due deliberation, the Panel issued an Order, dated June 9, 2006, granting Respondents' Motion to Dismiss.

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 June 9, 2006 pre-hearing conference, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Claimant's claims are dismissed in their entirety.
2. Any and all relief not specifically addressed herein, including punitive damages, 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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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 events 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

Forum Fees and Assessments

The Panel has assessed forum fees for each session conducted. 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 single arbitrator @ \$450.00	= \$ 450.00
Pre-hearing conference: May 10, 2006	1 session
Two (2) Pre-hearing sessions with the Panel @ \$750.00	= \$ 1,500.00
Pre-hearing conferences: December 19, 2005	1 session
June 9, 2006	1 session
Total Forum Fees	= \$ 1,950.00

1. The Panel has assessed \$1,950.00 of the forum fees to Claimant.

Fee Summary

1. Claimant is solely liable for:

Initial Filing Fee	= \$ 225.00
Forum Fees	= \$ 1,950.00
Total Fees	= \$ 2,175.00
Less payments	= \$ 1,250.00
Balance Due NASD Dispute Resolution	= \$ 925.00

2. Respondent Morgan Stanley is solely liable for:

Member Fees	= \$ 3,550.00
Total Fees	= \$ 3,550.00
Less payments	= \$ 4,050.00
Refund Due Respondent Morgan Stanley	= \$ 500.00

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

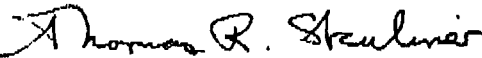
ARBITRATION PANEL

Charles J. Underwood, Jr., Esq.	-	Public Arbitrator, Presiding Chairperson
Thomas R. Skulina, Esq.	-	Public Arbitrator
Charles L. Abraham	-	Non-Public Arbitrator


Concurring Arbitrators' Signatures

Charles J. Underwood, Jr., Esq.
Public Arbitrator, Presiding Chairperson

Signature Date



Thomas R. Skulina, Esq.
Public Arbitrator



Signature Date

Charles L. Abraham
Non-Public Arbitrator

Signature Date

June 13, 2006

Date of Service (For NASD Dispute Resolution use only)

ARBITRATION PANEL

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Thomas R. Skulina, Esq.	-	Public Arbitrator
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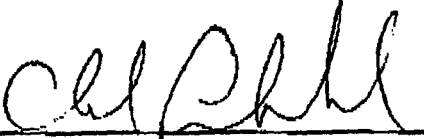
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Charles D. Underwood, Jr., Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

Thomas R. Skulina, Esq.
Public Arbitrator

Signature Date



Charles L. Abraham
Non-Public Arbitrator

6/13/06

Signature Date

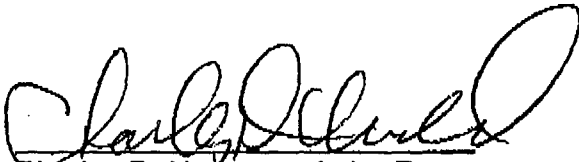
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Concurring Arbitrators' Signatures


Charles D. Underwood, Jr., Esq.
Public Arbitrator, Presiding Chairperson

6-19-06
Signature Date

Thomas R. Skulina, Esq.
Public Arbitrator

Signature Date

Charles L. Abraham
Non-Public Arbitrator

Signature Date

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