

**Award
NASD Dispute Resolution**

In the Matter of the Arbitration Between:

Paul and Helen Koons vs. Morgan Stanley DW, Inc., Garry Olson and James Martin

Case Number: 05-03541

Hearing Site: Philadelphia, PA

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

REPRESENTATION OF PARTIES

Claimants, Paul and Helen Koons, hereinafter collectively referred to as "Claimants", were represented by Byron L. Milner, Esq., King of Prussia, Pennsylvania.

Respondents, Morgan Stanley DW, Inc. ("Morgan Stanley"), Garry Olson ("Olson") and James Martin ("Martin"), hereinafter collectively referred to as "Respondents", were represented by John L. Castelly, Esq., Morgan Stanley DW, Inc., Purchase, New York.

CASE INFORMATION

Statement of Claim filed on July 11, 2005.

Claimants signed the Uniform Submission Agreement on June 17, 2005.

Statement of Answer filed by Respondents on October 14, 2005.

Amended Statement of Answer filed by Respondents on July 10, 2006.

A representative of Respondent Morgan Stanley executed the Uniform Submission Agreement on October 14, 2005.

Respondents Olson and Martin did not file Uniform Submission Agreements with NASD Dispute Resolution.

CASE SUMMARY

In the Statement of Claim, Claimants asserted the following causes of action, among others: negligence, intentional misconduct, and recklessness. The causes of action relate to the handling of Claimants' accounts by Respondents.

Unless specifically admitted in their Statement of Answer and Amended Statement of Answer, Respondents denied the allegations made in the Statement of Claim and asserted the following defenses, among others: failure to state a claim upon which relief may be granted; Claimants' claims are barred by the doctrines of waiver, estoppel and ratification; assumption of the risk; contributory negligence; failure to mitigate damages; and authorization.

RELIEF REQUESTED

Claimants in the Statement of Claim and Amended Statement of Claim requested:

Compensatory Damages	\$ 93,649.00
Attorney's Fees	amount unspecified
Interest	amount unspecified
Other Costs	amount unspecified

Respondents requested that the Arbitration Panel (the "Panel") dismiss the Statement of Claim in its entirety.

OTHER ISSUES CONSIDERED AND DECIDED

Respondents Olson and Martin did not file with NASD Dispute Resolution a properly executed Uniform Submission Agreement but are required to submit to arbitration pursuant to the Code and, having answered the claim, appeared and testified at the hearing, are bound by the determination of the Panel on all issues submitted.

At the hearing on the merits, Respondents Olson and Martin made an oral request for expungement of all reference to this matter from their Central Registration Depository ("CRD") records. The Panel denied their request.

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, 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. Respondents are jointly and severally liable to and shall pay to Claimants the sum of \$62,730.00 in compensatory damages, plus simple interest at a rate of 6% per annum accruing from the date of service of the award until the award is paid in full;
2. The parties shall bear their respective costs, except as Fees are specifically addressed herein; and,
3. 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	= \$ 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, Respondent Morgan Stanley 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:

April 19-21, 2006, mediation adjournment requested by the parties	= \$ 750.00
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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 single arbitrator @ \$450.00	waived
Pre-hearing conference: March 19, 2006 1 session	

One (1) Pre-hearing session with Panel @ \$ 750.00	= \$ 750.00
Pre-hearing conference: January 6, 2006 1 session	

Five (5) Hearing sessions @ \$ 750.00	= \$ 3,750.00
Hearing Dates:	
July 17, 2006 2 sessions	
July 18, 2006 2 sessions	
July 19, 2006 1 session	

Total Forum Fees	= \$ 4,500.00
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1. The Panel has assessed \$ 2,250.00 of the forum fees jointly and severally to Claimants.

2. The Panel has assessed \$ 2,250.00 of the forum fees jointly and severally to Respondents.

Fee Summary

1. Claimants are jointly and severally assessed and shall pay:

Initial Filing Fee	= \$ 225.00
Adjournment Fees	= \$ 375.00
<u>Forum Fees</u>	<u>= \$ 2,250.00</u>
Total Fees	= \$ 2,850.00
<u>Less payments</u>	<u>= \$ 975.00</u>
Balance Due NASD Dispute Resolution	= \$ 1,875.00

2. Respondent Morgan Stanley is assessed and shall pay:

<u>Member Fees</u>	<u>= \$ 3,550.00</u>
Total Fees	= \$ 3,550.00
<u>Less payments</u>	<u>= \$ 3,550.00</u>
Balance Due NASD Dispute Resolution	= \$ 0.00

3. Respondents are jointly and severally assessed and shall pay:

Adjournment Fees	= \$ 375.00
<u>Forum Fees</u>	<u>= \$ 2,250.00</u>
Total Fees	= \$ 2,625.00
<u>Less payments</u>	<u>= \$ 0.00</u>
Balance Due NASD Dispute Resolution	= \$ 2,625.00

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

ARBITRATION PANEL

Cynthia H. Plishtin
William J. Hirsch, Esq.
Antonio Albano

- Public Arbitrator, Presiding Chairperson
- Public Arbitrator, Panelist
- Non-Public Arbitrator, Panelist

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Concurring Arbitrators' Signatures

Cynthia H. Plishtin
Cynthia H. Plishtin
Public Arbitrator, Presiding Chairperson

7/22/06
Signature Date

William J. Hirsch, Esq.
Public Arbitrator, Panelist

Signature Date

Antonio Albano
Non-Public Arbitrator, Panelist

Signature Date

July 26, 2006
Date of Service (For NASD Dispute Resolution office use only)

Concurring Arbitrators' Signatures

Cynthia H. Plishtin
Public Arbitrator, Presiding Chairperson

Signature Date

William J. Hirsch
William J. Hirsch, Esq.
Public Arbitrator, Panelist

07/22/06
Signature Date

Antonio Albano
Non-Public Arbitrator, Panelist

Signature Date

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Cynthia H. Plishtin
Public Arbitrator, Presiding Chairperson

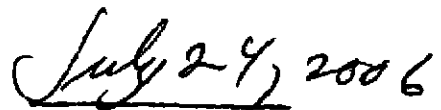
Signature Date

William J. Hirsch, Esq.
Public Arbitrator, Panelist

Signature Date



Antonio Albano
Non-Public Arbitrator, Panelist



Signature Date



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