

**Award  
NASD Dispute Resolution**

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In the Matter of the Arbitration Between:

Robert W. Despres (Claimant) vs. William Fellows and Morgan Stanley DW, Inc.  
(Respondent)

Case Number: 06-01004

Hearing Site: Montpelier, Vermont

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

**REPRESENTATION OF PARTIES**

Claimant Robert W. Despres hereinafter referred to as "Claimant" appeared *pro-se*.

Respondents William Fellows ("Fellows") and Morgan Stanley DW, Inc. ("Morgan Stanley") hereinafter collectively referred to as "Respondents": John L. Castelly, Esq., Morgan Stanley DW, Inc., Purchase, NY.

**CASE INFORMATION**

Statement of Claim filed on or about: February 24, 2006.

Claimant signed the Uniform Submission Agreement: February 23, 2006.

Joint Statement of Answer filed by Respondent on or about: May 12, 2006.

Morgan Stanley signed the Uniform Submission Agreement: May 9, 2006.

Fellows did not submit a Uniform Submission Agreement.

**CASE SUMMARY**

Claimant asserted the following cause of action: suitability. The cause of action relates 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**

Claimant requested compensatory damages in the amount of \$40,000.00.

Respondents requested dismissal of the Statement of Claim in its entirety and such other and further relief as the Panel deems appropriate.

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

Respondent Fellows 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 is bound by the determination of the Arbitrator on all issues submitted.

During the hearing, Respondent Fellows requested expungement of this matter from his CRD record. After due deliberation, the Arbitrator denied the expungement request.

### **AWARD**

After considering the pleadings, the testimony, and evidence presented, the Arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondent Morgan Stanley is liable for and shall pay to Claimant compensatory damages in the amount of \$18,400.00 plus interest at the rate of 12% per annum beginning from the date of the Award until the Award is paid in full.
2. 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	= \$ 175.00
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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	= \$ 875.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$ 1,000.00

#### **Forum Fees and Assessments**

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

Two (2) Decisions on discovery-related motions on the papers

with one (1) arbitrator @ \$200.00 = \$ 400.00  
Claimant submitted two (2) discovery-related motions

Two (2) pre-hearing sessions with single arbitrator @ \$450.00 = \$ 900.00  
Pre-hearing conference: July 28, 2006 1 session  
September 22, 2006 1 session

Two (2) Hearing sessions with single arbitrator @ \$450.00 = \$ 900.00  
Hearing Date: October 24, 2006 2 sessions  

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Total Forum Fees = \$ 2,200.00

1. Regarding the July 28, 2006 pre-hearing conference,
  - a. the Arbitrator has assessed \$225.00 of the forum fees jointly and severally to Respondents, and
  - b. the Arbitrator has assessed \$225.00 of the forum fees to Claimant.
2. Regarding the September 22, 2006 pre-hearing conference, the Arbitrator has assessed \$450.00 of the forum fees jointly and severally to Respondents,
3. Regarding the discovery related motions, the Arbitrator has assessed \$400.00 of the forum fees to Claimant.
4. Regarding the October 24, 2006 hearing sessions, the Arbitrator has assessed \$900.00 of the forum fees jointly and severally to Respondents.

#### Fee Summary

1. Claimant is solely liable for:

Initial Filing Fee	= \$ 175.00
Forum Fees	= \$ 625.00
Total Fees	= \$ 800.00
Less payments	= \$ 625.00
Balance Due NASD Dispute Resolution	= \$ 175.00
2. Respondent Morgan Stanley is solely liable for:

Member Fees	= \$ 2,625.00
Total Fees	= \$ 2,625.00
Less Payments	= \$ 2,625.00
Balance Due NASD Dispute Resolution	= \$ 0.00
3. Respondents are jointly and severally liable for:

Forum Fees	= \$ 1,575.00
Total Fees	= \$ 1,575.00
Less Payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 1,575.00

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

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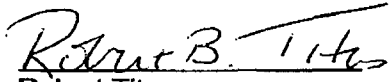
**ABITRATOR**

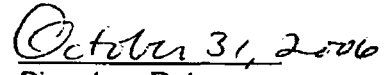
Robert Titus

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Sole Public Arbitrator

**Arbitrator's Signature**

  
Robert Titus  
Sole Public Arbitrator

  
Signature Date

November 1, 2006

Date of Service (For NASD Dispute Resolution use only)