
Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Names of the Claimants

Michael A. and Joann Collegio,
individually and as joint tenants

Case Number: 03-03539

Name of the Respondent

Morgan Stanley DW, Inc., a
Delaware corporation

Hearing Site: Boca Raton, Florida

Nature of the Dispute: Customer vs. Member.

REPRESENTATION OF PARTIES

For Michael A. and Joann Collegio, individually and as joint tenants, hereinafter collectively referred to as "Claimants": Robert Wayne Pearce, Esq., Robert Wayne Pearce, P.A., Boca Raton, Florida.

For Morgan Stanley DW, Inc., hereinafter referred to as "Respondent": Todd A. Zuckerbrod, Esq., Greenberg Traurig, P.A., West Palm Beach, Florida.

CASE INFORMATION

Statement of Claim filed on or about: May 14, 2003.

Claimants signed the Uniform Submission Agreement: April 15, 2003.

Statement of Answer filed by Respondent on or about: September 2, 2003.

Respondent signed the Uniform Submission Agreement: June 30, 2003.

CASE SUMMARY

Claimants asserted the following causes of action: violation of Section 517.301 of the Florida Statutes; breach of fiduciary duty; unsuitability; negligent supervision; common law fraud; negligent misrepresentations; negligence; and, breach of contract. The causes of action relate to the purchase and sale of numerous unspecified equities and common stocks in Claimants' accounts.

Unless specifically admitted in its Answer, Respondent denied the allegations made in the Statement of Claim and asserted various defenses.

RELIEF REQUESTED

Claimants requested compensatory damages in the amount of \$1,310,000.00, punitive damages, interest, attorney's fees pursuant to Section 517.211(6) of the Florida Statutes, costs and any other relief deemed just and proper.

Respondent requested that the Panel dismiss the Statement of Claim in its entirety, including Claimants' claims under Section 517.211(6) of the Florida Statutes. In addition, Respondent asserted that it intended to seek attorney's fees and costs from a court of competent jurisdiction pursuant to Section 517.211(6) of the Florida Statutes.

OTHER ISSUES CONSIDERED AND DECIDED

The parties have agreed that the Award in this matter may be executed in counterpart copies.

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:

Respondent is liable to Claimants on the claims of negligence, unsuitability and negligent supervision and shall pay to Claimants compensatory damages in the amount of \$275,000.00, plus interest at the Florida statutory rate from November 8, 2004 until the date of payment of the Award.

Each party shall bear their own attorney's fees.

Any and all claims for relief not specifically addressed herein, including Claimants' claims pursuant to Section 517.301 of the Florida Statutes and Claimants' requests for punitive damages, are denied.

FEES

Pursuant to the NASD Code of Arbitration Procedure (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	= \$ 500.00
--------------------------	-------------

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. In this matter, the member firm Morgan Stanley DW, Inc. is a party.

Member surcharge	= \$2,800.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$5,000.00

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

No requests for adjournments were filed in this matter.

Three-Day Cancellation Fees

Fees apply when a hearing on the merits is postponed or settled within three business days before the start of a scheduled hearing session:

No three-day cancellation fees were incurred in this matter.

Injunctive Relief Fees

Injunctive relief fees are assessed to each member or associated person who files for a temporary injunction in court. Parties in these cases are also assessed arbitrator travel expenses and costs when an arbitrator is required to travel outside his or her hearing location and additional arbitrator honoraria for the hearing for permanent injunction. These fees, except the injunctive relief surcharge, are assessed equally against each party unless otherwise directed by the Panel.

No injunctive relief fees were incurred in this matter.

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:

Three (3) Pre-hearing sessions with the Panel @ \$1,200.00		= \$ 3,600.00
Pre-hearing conferences:		
November 4, 2003	1 session	
February 19, 2004	1 session	
March 30, 2004	1 session	
Eleven (11) Hearing sessions @ \$1,200.00		= \$13,200.00
Hearing Dates:		
October 4, 2004	2 sessions	
October 5, 2004	2 sessions	
October 6, 2004	2 sessions	
October 7, 2004	3 sessions	
October 8, 2004	2 sessions	
Total Forum Fees		= \$16,800.00

The Panel has assessed \$8,400.00 of the forum fees jointly and severally to Claimants.
The Panel has assessed \$8,400.00 of the forum fees to Respondent.

Administrative Costs

Administrative costs are expenses incurred due to a request by a party for special services beyond the normal administrative services. These include, but are not limited to: additional copies of arbitrator awards; copies of audio transcripts; retrieval of documents from archives; interpreters; and, security.

No administrative costs were incurred in this matter.

Fee Summary

Claimants are jointly and severally liable for:

Initial Filing Fee	= \$ 500.00
Forum Fees	= \$ 8,400.00
<hr/> Total Fees	= \$ 8,900.00
Less payments	= \$ 1,700.00
<hr/> Balance Due NASD Dispute Resolution	= \$ 7,200.00

Respondent is solely liable for:

Member Fees	= \$ 8,550.00
Forum Fees	= \$ 8,400.00
<hr/> Total Fees	= \$ 16,950.00
Less payments	= \$ 8,550.00
<hr/> Balance Due NASD Dispute Resolution	= \$ 8,400.00

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

ARBITRATION PANEL

Herb Jacobs	-	Public Arbitrator, Presiding Chairperson
Stuart Bruce Klein, Esq.	-	Public Arbitrator
David E. Mowry	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

/s/	10/15/04
<hr/> Herb Jacobs	<hr/> Signature Date
Public Arbitrator, Presiding Chairperson	
/s/	10/14/04
<hr/> Stuart Bruce Klein, Esq.	<hr/> Signature Date
Public Arbitrator	
/s/	10/14/04
<hr/> David E. Mowry	<hr/> Signature Date
Non-Public Arbitrator	

10/15/04

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

NASD Dispute Resolution
Arbitration No. 03-03539
Award Page 4

Initial Filing Fee	= \$ 500.00
<u>Forum Fees</u>	= \$ 8,400.00
Total Fees	= \$ 8,900.00
<u>Less payments</u>	= \$ 1,700.00
Balance Due NASD Dispute Resolution	= \$ 7,200.00

Respondent is solely liable for:


Member Fees	= \$ 8,550.00
<u>Forum Fees</u>	= \$ 8,400.00
Total Fees	= \$16,950.00
<u>Less payments</u>	= \$ 8,550.00
Balance Due NASD Dispute Resolution	= \$ 8,400.00

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

ARBITRATION PANEL

Herb Jacobs	-	Public Arbitrator, Presiding Chairperson
Stuart Bruce Klein, Esq.	-	Public Arbitrator
David E. Mowry	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures


Herb Jacobs
Public Arbitrator, Presiding Chairperson

15 OCTOBER 2004
Signature Date

Stuart Bruce Klein, Esq.
Public Arbitrator

Signature Date

David E. Mowry
Non-Public Arbitrator

Signature Date

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

Initial Filing Fee	
<u>Forum Fees</u>	= \$ 500.00
<u>Total Fees</u>	= \$ 8,400.00
<u>Less payments</u>	= \$ 8,900.00
<u>Balance Due NASD Dispute Resolution</u>	= \$ 1,700.00
	= \$ 7,200.00

Respondent is solely liable for:

Member Fees	
<u>Forum Fees</u>	= \$ 8,550.00
<u>Total Fees</u>	= \$ 8,400.00
<u>Less payments</u>	= \$16,950.00
<u>Balance Due NASD Dispute Resolution</u>	= \$ 8,550.00
	= \$ 8,400.00

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

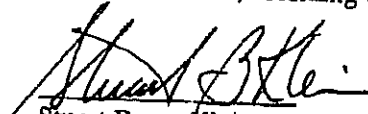
ARBITRATION PANEL

Herb Jacobs	-	Public Arbitrator, Presiding Chairperson
Stuart Bruce Klein, Esq.	-	Public Arbitrator
David E. Mowry	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

Herb Jacobs
Public Arbitrator, Presiding Chairperson

Signature Date


Stuart Bruce Klein, Esq.
Public Arbitrator

10/14/04
Signature Date

David E. Mowry
Non-Public Arbitrator

Signature Date

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

NASD Dispute Resolution
Arbitration No. 03-03539
Award Page 4

Initial Filing Fee	= \$ 500.00
Forum Fees	= \$ 8,400.00
Total Fees	= \$ 8,900.00
Less payments	= \$ 1,700.00
Balance Due NASD Dispute Resolution	= \$ 7,200.00

Respondent is solely liable for:

Member Fees	= \$ 8,550.00
Forum Fees	= \$ 8,400.00
Total Fees	= \$16,950.00
Less payments	= \$ 8,550.00
Balance Due NASD Dispute Resolution	= \$ 8,400.00

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

ARBITRATION PANEL

Herb Jacobs	-	Public Arbitrator, Presiding Chairperson
Stuart Bruce Klein, Esq.	-	Public Arbitrator
David E. Mowry	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

Herb Jacobs
Public Arbitrator, Presiding Chairperson

Signature Date

Stuart Bruce Klein, Esq.
Public Arbitrator

Signature Date

David E. Mowry
Non-Public Arbitrator

10/14/04
Signature Date

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