

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimants

Case Number: 00-00810

Edward Garvin and Linda Garvin .

Name of the Respondents

Hearing Site: Philadelphia, Pennsylvania

Morgan Stanley DW Inc., and
Charles R. Monahan, Jr.

REPRESENTATION OF PARTIES

Claimants Edward Garvin and Linda Garvin, hereinafter collectively referred to as "Claimants", were represented by Douglas R. Lally, Esq., Attorney at Law, Jenkintown, Pennsylvania.

Respondents Morgan Stanley DW, Inc. ("Morgan Stanley") and Charles R. Monahan, Jr. ("Monahan"), hereinafter collectively referred to as "Respondents", was represented by Howard M. Sendrovitz, Esq., Morgan Stanley Dean Witter, New York, New York.

CASE INFORMATION

Statement of Claim was filed on February 24, 2000.

Claimant signed the Uniform Submission Agreement on February 21, 2000.

Amended Statement of Claim filed on or about February 20, 2001.

Statement of Answer filed by Respondents on or about May 9, 2000.

Respondent Monahan did not file a signed the Uniform Submission Agreement with NASD Dispute Resolution.

Paul Thomas, F.V.P., executed Respondent Morgan Stanley's Uniform Submission Agreement on May 9, 2000.

Amended Statement of Answer filed by Respondents on or about March 8, 2001.

CASE SUMMARY

Claimants asserted the following causes of action, among others: breach of fiduciary duty; overreaching; self-serving commission generation; inappropriate investment selection and concentration; fraud; and, negligence. The causes of action relate to purchase and sale of the following stocks: AG Associates; ECI Telecom; Empressas ICA; Gilat Satellite; Gradco Systems; Informix CP; Kelly's Coffee; Novell Inc.; Quad Systems; Senetec PLC; Sadak Gaming; The 3Do Co.; and, US Diagnostics.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the

Statement of Claim and asserted the following defenses: failure to state a claim upon which relief may be granted; Respondents did not act with intent to defraud; Respondents did not misrepresent or omit material facts; Claimants caused any alleged losses; failure to mitigate; ratification; waiver; estoppel; superseding or intervening cause; all duties owed were fully performed by the Respondents; Respondents did not owe a fiduciary duty; Respondents were not negligent; adequate supervisory procedures were implemented and followed; punitive or exemplary damages are not recoverable by Claimants as a matter of law; Claimants are not entitled to attorney's fees; Statute of Limitations; and, Claimants' claims are ineligible to arbitration.

RELIEF REQUESTED

Claimants in their Statement of Claim requested:

Compensatory Damages	\$5,000,000.00
Punitive Damages	unspecified
Interest	unspecified
Attorneys' Fees	unspecified
Other Costs	unspecified

Respondents in their Statement of Answer requested the following: Claimants' claims against Respondents be dismissed in their entirety; an order be issued expunging this action from the Form U-4 of Respondent Monahan; that Respondents be awarded the costs and expenses of this arbitration; and, that Respondents be awarded such other and further relief as is just and proper.

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. Respondent Morgan Stanley shall pay Claimant compensatory damages in the amount of \$5,000.00. No prejudgment interest is assessed on this amount;
2. All claims against Respondent Monahan are denied in their entirety;
3. Respondent Monahan's request for expungement is denied;
4. The parties shall bear their respective costs, including attorney's fees, except as Fees are specifically addressed below; and,
5. Any and all relief not specifically addressed herein, including punitive damages, 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 = \$ 600.00

Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firms 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	= \$ 2,500.00
Pre-hearing process fee	= \$ 600.00
Hearing process fee	= \$ 4,500.00
Total Member Fees	= \$ 7,600.00

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

September 11-12, 2001, adjournment by Claimants = \$ 1,200.00

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:

Two (2) Pre-hearing sessions with Panel @ \$ 1,200.00	= \$ 2,400.00
Pre-hearing conferences:	
January 26, 2001	1 session
August 6, 2001	1 session

Five (5) Hearing sessions @ \$ 1,200.00	= \$ 6,000.00
Hearing Dates:	
September 24, 2002	2 sessions
September 25, 2002	2 sessions
October 2, 2002	1 session

Total Forum Fees = \$ 8,400.00

1. The Panel has assessed \$4,200.00 of the forum fees to Claimants.
2. The Panel has assessed \$4,200.00 of the forum fees to Respondent Morgan Stanley.

FEE SUMMARY

1. Claimants is assessed the following fees:

Initial Filing Fee	= \$ 600.00
Adjournment Fee	= \$ 1,200.00
Forum Fees	= \$ 4,200.00
Total Fees	= \$ 6,000.00
Less payments	= \$ 3,000.00
Balance Due NASD Dispute Resolution	= \$ 3,000.00

2. Respondent Morgan Stanley is assessed the following fees:

Member Fees	= \$ 7,600.00
Forum Fees	= \$ 4,200.00
Total Fees	= \$ 11,800.00
Less payments	= \$ 7,600.00
Balance Due NASD Dispute Resolution	= \$ 4,200.00

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


ARBITRATION PANEL

John A. Scudiero	-	Public Arbitrator, Presiding Chairperson
Diane Ciccone, Esq.	-	Public Arbitrator, Panelist
Richard A. Pascoe	-	Non-Public Arbitrator, Panelist

Concurring Arbitrators' Signatures

John A. Scudiero
Public Arbitrator, Presiding Chairperson

Signature Date


Diane Ciccone, Esq.
Public Arbitrator, Panelist

Signature Date

Richard A. Pascoe
Non-Public Arbitrator, Panelist

Signature Date

November 13, 2002
Date of Service (For NASD Dispute Resolution office use only)

Concurring Arbitrators' Signatures

John A. Scudiero
Public Arbitrator, Presiding Chairperson

Signature Date

Diane Ciccone, Esq.
Public Arbitrator, Panelist

Signature Date

Richard A. Pascoe
Richard A. Pascoe
Non-Public Arbitrator, Panelist

11-8-02
Signature Date

November 13, 2002
Date of Service (For NASD Dispute Resolution office use only)