
Award
NASD

In the Matter of the Arbitration Between:

Name of Claimant
James and Tammie Baxley

Case Number: 01-03026

Name of Respondent
Morgan Stanley DW Inc.

Hearing Site: New Orleans, Louisiana

REPRESENTATION OF PARTIES

For James and Tammie Baxley ("Claimant"): L. Jerome Stanley, Esq., L. Jerome Stanley, P.C., Baton Rouge, Louisiana.

For Morgan Stanley DW Inc. ("Respondent"): David D. Sterling, Esq., Baker Botts, L.L.P., Houston, Texas.

CASE INFORMATION

Statement of Claim filed on or about: June 6, 2001.

Claimant signed the Uniform Submission Agreement: May 25, 2001.

Statement of Answer filed by Respondent on or about: August 9, 2001.

Respondent did not file an executed Uniform Submission Agreement.

CASE SUMMARY

Claimant alleged that the sale to Claimant of volatile, higher-risk securities on margin through the use of misstatements of fact and omission of fact, violates the Louisiana Securities Act, constitutes a breach of fiduciary duty and a breach of contract. Claimant further alleged that the frequent purchase and sale of securities, including Initial Public Offerings, for the purpose of generating fees and commissions without regard for the interest of Claimant, violates the Louisiana Securities Act, constitutes a breach of fiduciary duty and a breach of contract. The causes of action relate to numerous investments, including but not limited to, Amazon, Arm Financial Group, At Home Corp., Ashford.Com, Inc., Amtel Corp., Com 21 Inc., Convergys Corp., Cypress Semiconductor, E-Tek Dynamics, EMC Corp., Lycos, Mindspring Enterprises, Munder Net Fund B, Oppenheimer Champion Fund, Putnam High Yield Trust, Qwest Communications, Statia Terminals Group, and Wellpoint Heath.

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

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RELIEF REQUESTED

Claimant requested: 1) compensatory damages in the approximate amount of \$209,371.62 for losses incurred in the purchase of securities; 2) margin interest in the amount of \$41,253.77; 3) underwriting fees and commissions in the amount of \$23,000.00 relating to the purchase and sale of Initial Public Offerings; 4) unspecified underwriting fees and commissions; 5) interest from the dates of purchase to the dates of repayment, less any income received; 6) costs, including filing fees and expert witness fees; 7) attorneys' fees; and 8) punitive damages in the amount of \$500,000.00.

Respondent requested dismissal of the Statement of Claim.

OTHER ISSUES CONSIDERED AND DECIDED

Respondent did not file with NASD a properly executed submission agreement but is required to submit to arbitration pursuant to the NASD Code of Arbitration Procedure ("Code") and, having answered the claim, appeared and testified at the evidentiary hearing, is bound by the determination of the Panel on all issues submitted.

The parties agreed that the Award may be entered 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, and the post-hearing submissions (if any), the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondent is liable and shall pay to Claimant compensatory damages, interest and attorneys' fees in the total amount of \$100,000.00. Attorneys' fees are awarded pursuant to the Louisiana Securities Act.
2. Respondent is liable and shall pay to Claimant punitive damages in the amount of \$100,000.00. Punitive damages are awarded pursuant to Mastrobuono v. Shearson Lehman Hutton, 115 S.Ct. 1212 (1995).
3. Respondent is liable and shall pay to Claimant costs in the amount of \$375.00.
4. Any and all claims for relief not specifically addressed herein are denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD will retain or collect the non-refundable filing fees for each claim:

Initial claim filing fee = \$ 375.00

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. Accordingly, Respondent is a member and a party.

Member surcharge	= \$2,000.00
Pre-hearing process fee	= \$ 600.00
Hearing process fee	= \$3,500.00

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

There were no adjournment fees assessed during these proceedings.

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.

There were no injunctive relief fees assessed during these proceedings.

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 Panel @ \$1,200.00	= \$1,200.00
Pre-hearing conference: March 27, 2002	1 session

Four (4) Hearing sessions @ \$1,200.00	= \$4,800.00
Hearing Dates: October 8, 2002	2 sessions
October 9, 2002	2 sessions

Total Forum Fees	= \$6,000.00
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The Panel has assessed the total forum fees of \$6,000.00 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 not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

There were no administrative costs incurred during these proceedings.

Fee Summary

Claimant is solely liable for:

Initial Filing Fee	= \$ 375.00
Total Fees	= \$ 375.00
Less payments	= \$ 375.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondent is solely liable for:

Member Fees	= \$ 6,100.00
<u>Forum Fees</u>	<u>= \$ 6,000.00</u>
Total Fees	= \$12,100.00
<u>Less payments</u>	<u>= \$ 6,100.00</u>
Balance Due NASD Dispute Resolution	= \$ 6,000.00

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

ARBITRATION PANEL

<i>Daniel Eugene Bivins, III</i>	-	<i>Public Arbitrator, Presiding Chairperson</i>
<i>Herman Brasseaux</i>	-	<i>Public Arbitrator</i>
<i>Robert R. Wolf</i>	-	<i>Non-Public Arbitrator</i>

Concurring Arbitrators' Signatures

/s/
Daniel Eugene Bivins, III
Public Arbitrator, Presiding Chairperson

November 12, 2002
Signature Date

/s/
Herman Brasseaux
Public Arbitrator

November 13, 2002
Signature Date

/s/
Robert R. Wolf
Non-Public Arbitrator

November 15, 2002
Signature Date

November 15, 2002
Date of Service (For NASD use only)



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Signature Date

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Herman Brasseaux
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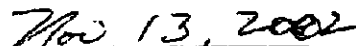
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Public Arbitrator, Presiding Chairperson

Signature Date


Herman Brasseaux
Public Arbitrator


Nov. 13, 2002
Signature Date

Robert R. Wolf
Non-Public Arbitrator

Signature Date

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Concurring Arbitrators' Signatures

Daniel Eugene Bivins, III
Public Arbitrator, Presiding Chairperson

Signature Date

Herman Brasseaux
Public Arbitrator

Signature Date


Robert R. Wolf
Non-Public Arbitrator

15 Nov 2002
Signature Date

Date of Service (For NASD use only)