

**Award
NASD Dispute Resolution**

In the Matter of the Arbitration Between:

Name of the Claimant

Angelo Tatano, d/b/a Refrigeration Care, Inc.

Case Number: 02-05747

Names of the Respondents

Gerald Goodman

Morgan Stanley DW Inc.

f/k/a Dean Witter Reynolds, Inc.

First Union Securities, Inc.

f/k/a Kemper/Everen Securities, Inc.

n/k/a Wachovia Securities, Inc.

Hearing Site: Pittsburgh, PA

REPRESENTATION OF PARTIES

Claimant, Angelo Tatano, hereinafter referred to as "Claimant", was represented by Stanley W. Greenfield, Esq., Greenfield & Kay, Pittsburgh, Pennsylvania.

Respondents, Gerald Goodman ("Goodman"), Morgan Stanley DW Inc., f/k/a Dean Witter Reynolds, Inc., ("Morgan Stanley") and, First Union Securities, Inc. f/k/a Kemper/Everen Securities, Inc., n/k/a Wachovia Securities, Inc. ("Wachovia"), hereinafter collectively referred to as "Respondents", were represented by Michael A. Gross, Esq., Ulmer & Berne, LLP, Cleveland, Ohio.

CASE INFORMATION

Statement of Claim filed on September 27, 2002.

Claimant signed the Uniform Submission Agreement on September 26, 2002.

Motion to Dismiss and Statement of Answer filed by Morgan Stanley and Goodman on December 19, 2002.

Motion to Dismiss and Statement of Answer filed by Wachovia and Goodman on December 3, 2002.

Amended Motion to Dismiss and Statement of Answer filed by Wachovia and Goodman on January 8, 2003.

Respondents did not file Uniform Submission Agreements.

Claimant filed a response to Respondents' Motions to Dismiss and Amended Motion to Dismiss on July 11, 2003.

Morgan Stanley and Wachovia filed a Reply to Claimant's Response to Its Motion to Dismiss on July 14, 2003.

Morgan Stanley and Wachovia filed a Motion to Strike on July 14, 2003.

CASE SUMMARY

Claimant asserted the following causes of action, among others: suitability; churning; breach of contract; negligence; breach of fiduciary duty; misrepresentation; omission of fact; and, unauthorized trading. The causes of action relate to the purchase and sale of common stock; mutual funds; preferred stock; real estate investment trusts; and, limited partnerships.

Unless specifically admitted in their Answer, Wachovia and Goodman denied the allegations set forth in the Statement of Claim and asserted the following defenses, among others: failure to state a claim upon which relief may be granted; failure to mitigate damages; Claimant's claims are barred by the doctrines of estoppel, waiver, and laches; Claimant's claims are barred by the statute of limitations; ratification; and, Claimant's claims are barred by the doctrine of accord and satisfaction.

Unless specifically admitted in their Answer, Morgan Stanley and Goodman denied the allegations set forth in the Statement of Claim and asserted the following defenses, among others: failure to state a claim upon which relief may be granted; assumption of the risk; negligence; failure to mitigate damages; ratification; failure to plead fraud claims with requisite degree of particularity; and, Claimant's claims are barred by the doctrines of accord and satisfaction.

RELIEF REQUESTED

Claimant requested:

Compensatory Damages	\$ 41,859.12
Punitive Damages	\$ 41,859.12
Interest	amount unspecified
Attorneys' Fees	amount unspecified
Other Costs	amount unspecified

Respondents requested that the Statement of Claim be dismissed in its entirety; that they be awarded costs, attorney's fees, forum fees; and, that the panel recommend the expungement of all reference to this matter from Respondent Goodman's CRD record.

OTHER ISSUES CONSIDERED AND DECIDED

Respondents did not file with NASD Dispute Resolution, properly executed submissions to arbitration 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 Arbitration Panel (the "Panel") on all issues submitted.

On April 23, 2001 Goodman filed a Voluntary Petition in the United States Bankruptcy Court, Southern District of Ohio, Eastern Division. Pursuant to this filing, all matters concerning this party are indefinitely stayed.

The Panel denied Respondent Morgan Stanley and Respondent Wachovia's Motion to Strike on August 12, 2003.

The Panel granted Respondents Motions to Dismiss on August 12, 2003.

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. Claimant's claims are denied in their entirety;
2. The parties shall bear their respective costs, including attorneys' fees, except as Fees are specifically addressed below; and,
3. 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 = \$ 225.00

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 and Respondent Wachovia are parties.

<u>Morgan Stanley:</u>	
Member surcharge	= \$1,100.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$1,700.00

<u>Wachovia:</u>	
Member surcharge	= \$1,100.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$1,700.00

Forum Fees and Assessments

The Panel has assessed forum fees for each session conducted. A session is any meeting between the parties and the arbitrator(s), including a pre-hearing conference with the arbitrator(s), that lasts four (4) hours or less. Fees associated with these proceedings are:

Two (2) Pre-hearing sessions with Panel @ \$750.00 = \$1,500.00
Pre-hearing conferences: June 12, 2003 1 session
August 4, 2003 1 session

Total Forum Fees = \$1,500.00

1. The Panel has assessed \$750.00 of the forum fees to Claimant.
2. The Panel has assessed \$750.00 of the forum fees jointly and severally to Morgan Stanley and Wachovia.

Fee Summary

1. Claimant is assessed:

Initial Filing Fee	= \$ 225.00
<u>Forum Fees</u>	<u>= \$ 750.00</u>
Total Fees	= \$ 975.00
<u>Less payments</u>	<u>= \$ 975.00</u>
Balance Due NASD Dispute Resolution	= \$ 0.00

2. Morgan Stanley is assessed:

<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. Wachovia is assessed:

<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

4. Morgan Stanley and Wachovia are jointly and severally assessed:

<u>Forum Fees</u>	<u>= \$ 750.00</u>
Total Fees	= \$ 750.00
<u>Less payments</u>	<u>= \$ 1,700.00</u>
Refund owed Respondent Morgan Stanley	= \$ 950.00

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

ARBITRATION PANEL

Michael R. Stabile, Jr., Esq.	-	Public Arbitrator, Presiding Chairperson
Larry A. Feldman	-	Public Arbitrator, Panelist
Ralph L. Corton, Jr., CFA	-	Non-Public Arbitrator, Panelist

Concurring Arbitrators' Signatures

Michael R. Stabile, Jr.

Michael R. Stabile, Jr., Esq.
Public Arbitrator, Presiding Chairperson

9-4-03

Signature Date

Larry A. Feldman
Public Arbitrator, Panelist

Signature Date

Ralph L. Corton, Jr., CFA
Non-Public Arbitrator, Panelist

Signature Date

September 8, 2003

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

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Michael R. Stabile, Jr., Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

Larry A. Feldman
Public Arbitrator, Panelist

Signature Date

Ralph L. Corton, Jr., CFA

Ralph L. Corton, Jr., CFA
Non-Public Arbitrator, Panelist

9-8-03

Signature Date

September 8, 2003

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