

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimant

Case Number: 02-07043

Doris D. Gordon

Name of the Respondents

Hearing Site: Charlotte, North Carolina

Morgan Stanley DW Inc. and
Morgan Stanley Dean Witter & Co.

Nature of the Dispute: Customer vs. Member and Non-Member.

REPRESENTATION OF PARTIES

Claimant Doris D. Gordon, hereinafter referred to as "Claimant", was represented by Neil A. Riemann, Penry Riemann PLLC, Raleigh, North Carolina.

Respondents Morgan Stanley DW Inc. and Morgan Stanley Dean Witter & Co., hereinafter collectively referred to as "Respondents", were represented by Julie K. Glynn, Esq., Morgan Stanley DW Inc., New York, New York.

CASE INFORMATION

Statement of Claim filed on November 19, 2002.

Claimant signed the Uniform Submission Agreement on November 18, 2002.

Statement of Answer filed by Respondents on April 29, 2003.

Respondents did not file Uniform Submission Agreements with NASD Dispute Resolution.

CASE SUMMARY

Claimant asserted the following causes of action, among others: unsuitability, breach of fiduciary duty; negligence; and, breach of New York Stock Exchange rules. The causes of action relate to the purchase of the following Morgan Stanley Dean Witter funds: Technology Fund B, High Yield Fund B and Aggressive Equity Fund B.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted the following defenses, among others: failure to state a claim upon which relief may be granted; all duties owed to Claimant were fully performed; estoppel; market conditions or Claimant's own conduct caused any alleged damages; Respondents had adequate supervisory procedures in place; and, comparative and/or contributive negligence.

RELIEF REQUESTED

Claimant in her Statement of Claim requested:

Compensatory Damages	\$80,000.00
Attorneys' Fees	amount unspecified
Other Costs	amount unspecified

Respondents in their Statement of Answer requested that the Panel dismiss the Statement of Claim in its entirety; award Respondent the costs and expenses of this arbitration, including reasonable attorneys' fees; and, award Respondents such other and further relief as is just and proper.

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 Panel on all issues submitted.

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. All claims against Respondents 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 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(s) at the time of the events giving rise to the dispute. Accordingly, Respondent Morgan Stanley DW Inc. is a party.

Member surcharge	= \$1,100.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$1,700.00
Total Member Fees	= \$3,550.00

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:

One (1) Pre-hearing session with a single arbitrator @ \$450.00 = \$ 450.00
Pre-hearing conference: September 3, 2003 1 session

One (1) Pre-hearing session with Panel @ \$750.00 = \$ 750.00
Pre-hearing conference: June 6, 2003 1 session

Two (2) Hearing sessions @ \$1,500.00 = \$1,500.00
Hearing Date: October 20, 2003 2 sessions

Total Forum Fees = \$2,700.00

1. The Panel has assessed \$1,350.00 of the forum fees to Claimant.
3. The Panel has assessed \$1,350.00 of the forum fees jointly and severally to Respondents.

FEE SUMMARY

1. Claimant is assessed the following fees:

Initial Filing Fee	= \$ 225.00
Forum Fees	= \$1,350.00
Total Fees	= \$1,575.00
Less payments	= \$ 975.00
Balance Due NASD Dispute Resolution	= \$ 600.00

2. Respondent Morgan Stanley DW, Inc. is assessed the following fees:

Member Fees	= \$3,550.00
Total Fees	= \$3,550.00
Less payments	= \$3,550.00
Balance Due NASD Dispute Resolution	= \$ 0.00

3. Respondents are jointly and severally assessed the following fees:

Forum Fees	= \$1,350.00
Total Fees	= \$1,350.00
Less payments	= \$ 600.00
Balance Due NASD Dispute Resolution	= \$ 750.00

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

ARBITRATION PANEL

Zeb E. Barnhardt, Jr., Esq.	-	Public Arbitrator, Presiding Chairperson
Robert S. Bernard, Esq.	-	Public Arbitrator, Panelist
J. Evan MacWhirter	-	Non-Public Arbitrator, Panelist

Concurring Arbitrators' Signatures

Zeb E. Barnhardt

Zeb E. Barnhardt, Jr., Esq.
Public Arbitrator, Presiding Chairperson

Oct. 23, 2003

Signature Date

Robert S. Bernard, Esq.
Public Arbitrator, Panelist

Signature Date

J. Evan MacWhirter
Non-Public Arbitrator, Panelist

Signature Date


October 28, 2003

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

Concurring Arbitrators' Signatures

Zub E. Bernhardt, Jr., Esq.
Public Arbitrator, Presiding Chairperson

Signature Date


Robert S. Bernard, Esq.
Public Arbitrator, Panelist

10/23/23
Signature Date

J. Evan MacWhirter
Non-Public Arbitrator, Panelist

Signature Date

October 28, 2023
Date of Service (For NASD Dispute Resolution office use only)

Zeb E. Barnhardt, Jr., Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

Robert S. Bernard, Esq.
Public Arbitrator, Panelist

Signature Date

J. Evan MacWhirter
Non-Public Arbitrator, Panelist

Oct. 24 2:00 PM

Signature Date

October 28, 2003
Date of Service (For NASD Dispute Resolution office use only)