
Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Names of the Claimants

Joseph H. Nolette
Joseph H. Nolette, IRA
Lorraine S. Nolette, IRA
Tina Marie Nolette

Case Number: 03-00080

Name of the Respondent

Morgan Stanley DW, Inc.

Hearing Site: Orlando, Florida

Nature of the Dispute: Customers vs. Member.

REPRESENTATION OF PARTIES

For Joseph H. Nolette; Joseph H. Nolette, IRA; Lorraine S. Nolette, IRA; and Tina Marie Nolette, hereinafter collectively referred to as "Claimants": Neal J. Blaher, Esq., Law Offices of Neal J. Blaher, Orlando, Florida.

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

CASE INFORMATION

Statement of Claim filed on or about: December 31, 2002.

Claimants signed the Uniform Submission Agreement on: November 16, 2002.

Statement of Answer filed by Respondent MSDW on or about: March 4, 2003.

Respondent MSDW signed the Uniform Submission Agreement on: March 5, 2003.

CASE SUMMARY

Claimants alleged the following causes of action: 1) violation of Chapter 517, Florida Statutes; 2) suitability; 3) failure to supervise; 4) breach of fiduciary duty; 5) breach of contract; and 6) negligence. The causes of action relate to investments in shares of mutual funds including MSDW Dividend Growth, MSDW American Opportunities, MSDW European Growth, MSDW Information, and MSDW Twenty-First Century.

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

RELIEF REQUESTED

Claimants requested: 1) compensatory damages in the amount of \$1,000,000.00; 2) disgorgement of all forms of compensation received by Respondent MSDW and/or charges paid by Claimants; 3) selective rescission; 4) pre-judgment interest; 5) costs; 6) punitive damages and 7) such other relief the undersigned arbitrators (the "Panel") deemed just and proper.

Respondent MSDW requested dismissal of the Statement of Claim in its entirety.

OTHER ISSUES CONSIDERED AND DECIDED

The parties agreed that the Award in this matter may be executed 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 MSDW is liable and shall pay to Claimant Joseph H. Nolette, IRA compensatory damages in the amount of \$24,747.00, pre-judgment interest denied. The Panel finds Respondent MSDW liable for breach of fiduciary duty. The Panel does not find Respondent MSDW liable under Chapter 517, Florida Statutes.
2. Respondent MSDW is liable and shall pay to Claimant Lorraine S. Nolette, IRA compensatory damages in the amount of \$22,051.00, pre-judgment interest denied. The Panel finds Respondent MSDW liable for breach of fiduciary duty. The Panel does not find Respondent MSDW liable under Chapter 517, Florida Statutes.
3. Claimant Joseph H. Nolette's claims are denied.
4. Claimant Tina Marie Nolette's claims are denied.
5. Claimants' request for punitive damages is denied.
6. Any and all claims or relief, including all claims under Chapter 517, Florida Statutes, not specifically addressed herein are denied.

FEES

Pursuant to the NASD Code of Arbitration Procedure (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 MSDW is a member firm and a party.

Member surcharge	= \$2,250.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$4,000.00

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

There were no adjournments requested during these proceedings for which fees were assessed.

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 a single arbitrator @ \$450.00 per session = \$ 450.00
Pre-hearing conference: November 17, 2003 1 session

One (1) Pre-hearing session with Panel @ \$1,200.00 per session = \$1,200.00
Pre-hearing conference: June 20, 2003 1 session

Six (6) Hearing sessions @ \$1,200.00 per session = \$7,200.00
Hearing Dates: March 2, 2004 2 sessions
March 3, 2004 2 sessions
March 4, 2004 2 sessions

Total Forum Fees = \$8,850.00

The Panel has assessed the total forum fees in the amount of \$8,850.00 to Respondent MSDW.

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

Claimants are jointly and severally liable for:

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

Respondent MSDW is solely liable for:

<u>Member Fees</u>	= \$ 7,000.00
<u>Forum Fees</u>	= \$ 8,850.00
<u>Total Fees</u>	= \$15,850.00
<u>Less payments</u>	= \$ 7,750.00
<u>Balance Due NASD Dispute Resolution</u>	= \$ 8,100.00

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

ARBITRATION PANEL

<i>Beverly S. Gordon, Esq.</i>	-	<i>Public Arbitrator, Presiding Chairperson</i>
<i>Richard E. Shute</i>	-	<i>Public Arbitrator</i>
<i>Marc S. Piven</i>	-	<i>Non-Public Arbitrator</i>

Concurring Arbitrators' Signatures

/s/
Beverly S. Gordon, Esq.
Public Arbitrator, Presiding Chairperson

March 11, 2004
Signature Date

/s/
Richard E. Shute
Public Arbitrator

March 9, 2004
Signature Date

/s/
Marc S. Piven
Non-Public Arbitrator

March 10, 2004
Signature Date

NASD Dispute Resolution
Arbitration No. 03-00080
Award Page 5

March 12, 2004

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

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

Claimants are jointly and severally liable for:

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

Respondent MSDW is solely liable for:

Member Fees	= \$ 7,000.00
Forum Fees	= \$ 8,850.00
Total Fees	= \$15,850.00
Less payments	= \$ 7,750.00
Balance Due NASD Dispute Resolution	= \$ 8,100.00

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

ARBITRATION PANEL

Beverly S. Gordon, Esq.

Richard E. Shute

Marc S. Piven

Public Arbitrator, Presiding Chairperson

Public Arbitrator

Non-Public Arbitrator

Concurring Arbitrators' Signatures

Beverly S. Gordon, Esq.
Beverly S. Gordon, Esq.
Public Arbitrator, Presiding Chairperson

3/11/04
Signature Date

Richard E. Shute
Richard E. Shute
Public Arbitrator

Signature Date

Marc S. Piven
Marc S. Piven
Non-Public Arbitrator

Signature Date

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

Claimants are jointly and severally liable for:

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

Respondent MSDW is solely liable for:

Member Fees	= \$ 7,000.00
Forum Fees	= \$ 8,850.00
Total Fees	= \$15,850.00
Less payments	= \$ 7,750.00
Balance Due NASD Dispute Resolution	= \$ 8,100.00

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

ARBITRATION PANEL

Beverly S. Gordon, Esq.

Richard E. Shute

Marc S. Piven

Public Arbitrator, Presiding Chairperson

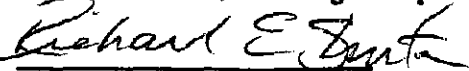
Public Arbitrator

Non-Public Arbitrator

Concurring Arbitrators' Signatures

Beverly S. Gordon, Esq.

Public Arbitrator, Presiding Chairperson



Richard E. Shute

Public Arbitrator

Signature Date

3/9/04

Signature Date

Marc S. Piven

Non-Public Arbitrator

Signature Date

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

Claimants are jointly and severally liable for:

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

Respondent MSDW is solely liable for:

Member Fees	= \$ 7,000.00
Forum Fees	= \$ 8,850.00
Total Fees	= \$15,850.00
Less payments	= \$ 7,750.00
Balance Due NASD Dispute Resolution	= \$ 8,100.00

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

ARBITRATION PANEL

Beverly S. Gordon, Esq.

Richard E. Shute

Marc S. Piven

Public Arbitrator, Presiding Chairperson

Public Arbitrator

Non-Public Arbitrator

Concurring Arbitrators' Signatures

Beverly S. Gordon, Esq.

Public Arbitrator, Presiding Chairperson

Signature Date

Richard E. Shute

Public Arbitrator

Signature Date

Marc S. Piven

Non-Public Arbitrator

Signature Date

3-10-2004