
Stipulated Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimant

Francoise Arnal

Case Number: 03-01488

Names of the Respondents

Morgan Stanley DW Inc., a New York corporation
Caroline T. Mellema, an employee/agent of Morgan
Stanley and authorized to conduct business in Florida

Hearing Site: Boca Raton, Florida

Nature of the Dispute: Customer vs. Member and Associated Person.

REPRESENTATION OF PARTIES

For Francoise Arnal, hereinafter referred to as "Claimant": William S. Isenberg, Esq., Law Offices of William S. Isenberg, Fort Lauderdale, Florida.

For Respondent Morgan Stanley DW Inc., a New York corporation ("MSDW"): Todd A. Zuckerbrod, Esq., Greenberg Traurig, West Palm Beach, Florida.

For Respondent Caroline T. Mellema, an employee/agent of Morgan Stanley and authorized to conduct business in Florida ("Mellema"): V. Michael Arias, Esq., Carlson & Lewittes, P.A., Miami, Florida.

CASE INFORMATION

Statement of Claim filed on or about: February 15, 2003.

Claimant signed the Uniform Submission Agreement: February 15, 2003.

Statement of Answer filed by Respondents on or about: September 29, 2003.

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

Respondent Mellema signed the Uniform Submission Agreement: August 6, 2003.

Motion to Re-open Matter filed by Respondent Mellema on or about: June 2, 2006.

CASE SUMMARY

Claimant asserted the following causes of action: 1) unsuitability; 2) negligent supervision 3) unauthorized transactions; and, 4) breach of fiduciary duty. The causes of action relate to the purchase of various unspecified mutual funds, common stocks and unit investment trusts in Claimant's account.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted various affirmative defenses. Respondents denied any liability or wrongdoing and

denied all claims for damages under any theory. Respondents asserted that: 1) Claimant maintained a non-discretionary account and was ultimately responsible for her investment decisions; 2) Respondents fulfilled their duty to supervise; and, 3) Claimant cannot claim negligent supervision, as there is no evidence of a showing of a primary responsibility.

RELIEF REQUESTED

Claimant requested compensatory damages in the amount of \$100,000.00, punitive damages, interest, costs, attorneys' fees and all other relief as this Panel deemed just and proper.

Respondents requested that the Statement of Claim be dismissed in its entirety and gave notice of their intent to seek attorney's fees as prevailing parties from a court of competent jurisdiction pursuant to Florida Statutes, Section 517.211(6).

OTHER ISSUES CONSIDERED AND DECIDED

On or about April 28, 2006, the parties informed NASD Dispute Resolution that they had settled this matter.

On or about May 1, 2006, Claimant and Respondent Mellema informed NASD Dispute Resolution that they would be submitting a proposed Stipulated Award with a request for expungement of Respondent Mellema's NASD Central Registration Depository (the "CRD") record. The parties were given a deadline of May 16, 2006 to submit the proposed Stipulated Award to NASD Dispute Resolution. The parties did not submit a proposed Stipulated Award by said date and NASD Dispute Resolution proceeded to close this case.

On or about June 2, 2006, Respondent Mellema filed a Motion to Re-open this matter for the sole purpose of requesting expungement of her NASD CRD record.

On June 23, 2006, the Panel issued an Order that granted Respondent Mellema's Motion to Re-open this matter.

On or about June 28, 2006, Claimant and Respondent Mellema filed with NASD Dispute Resolution a proposed Stipulated Award with a request for expungement of Respondent Mellema's NASD CRD record.

The parties have agreed that the Stipulated Award in this matter may be entered in counterpart copies or that a signed handwritten Stipulated Award may be entered.

AWARD

The Claimant and Respondent Mellema entered into an agreement to present to the Panel a Stipulated Award. Now, in lieu of a hearing and upon motion of both parties for an entry of an award, the written stipulation thereto, the Panel grants the motion and enters this award granting the following relief:

Respondent Mellema is dismissed from this matter, with prejudice.

The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Mellema's registration records maintained by the NASD CRD, with the understanding that pursuant to NASD Notices to Members 99-09 and 99-54, Respondent Mellema must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

Any and all claims for relief 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 Dispute Resolution will retain or collect the non-refundable filing fees for each claim:

Initial claim filing fee	= \$ 225.00
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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 party to this dispute and was a member of NASD at the time the following fees were assessed:

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

Adjournment Fees

No requests for adjournments were filed in this matter.

Three-Day Cancellation Fees

Fees apply when a hearing on the merits is postponed or settled within three business days before the start of a scheduled hearing session:

Cancellation fees were assessed in this matter.

May 2 – 5, 2006, settlement by parties	= \$300.00
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The Panel has assessed \$150.00 of the cancellation fee to Claimant.

The Panel has assessed \$150.00 of the cancellation fee jointly and severally to Respondents.

Injunctive Relief Fees

No injunctive relief fees were incurred during this proceeding.

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:

Three (3) Pre-hearing sessions with the Panel @ \$750.00	= \$2,250.00
Pre-hearing conferences: January 16, 2004	1 session
September 7, 2004	1 session
May 26, 2005	1 session
Total Forum Fees	= \$2,250.00

The Panel has assessed \$1,125.00 of the forum fees to Claimant.

The Panel has assessed \$1,125.00 of the forum fees jointly and severally to Respondents.

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.

No administrative costs were incurred during this proceeding.

Fee Summary

Claimant is solely liable for:

Initial Filing Fee	= \$ 225.00
Forum Fees	= \$ 1,125.00
Three-day Rule Fee	= \$ 150.00
Total Fees	= \$ 1,500.00
Less payments	= \$ 975.00
Balance Due NASD Dispute Resolution	= \$ 525.00

Respondent MSDW is solely liable for:

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

Respondents are jointly and severally liable for:

Forum Fees	= \$ 1,125.00
Three-day Rule Fee	= \$ 150.00
Total Fees	= \$ 1,275.00

<u>Less payments</u>	<u>= \$ 1,275.00</u>
Balance Due NASD Dispute Resolution	= \$ 0.00

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

ARBITRATION PANEL

<i>John F. Morack, Ph.D</i>	-	<i>Public Arbitrator, Presiding Chairperson</i>
<i>Albert Fox</i>	-	<i>Public Arbitrator</i>
<i>Jeffrey C. Thompson</i>	-	<i>Non-Public Arbitrator</i>

Concurring Arbitrators' Signatures

 /s/
John F. Morack, Ph.D
Public Arbitrator, Presiding Chairperson

07/26/06
Signature Date

 /s/
Albert Fox
Public Arbitrator

07/24/06
Signature Date

 /s/
Jeffrey C. Thompson
Non-Public Arbitrator

07/25/06
Signature Date

07/26/06
Date of Service (For NASD Dispute Resolution office use only)

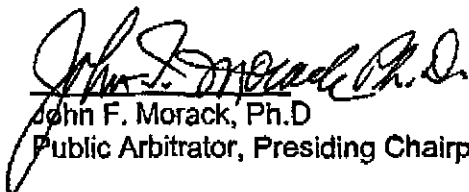
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Concurring Arbitrators' Signatures


John F. Morack, Ph.D
Public Arbitrator, Presiding Chairperson

7-26-06
Signature Date

Albert Fox
Public Arbitrator

Signature Date

Jeffrey C. Thompson
Non-Public Arbitrator

Signature Date

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John F. Morack, Ph.D
Public Arbitrator, Presiding Chairperson

Signature Date



Albert Fox
Public Arbitrator

7-24-06

Signature Date

Jeffrey C. Thompson
Non-Public Arbitrator

Signature Date

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Public Arbitrator, Presiding Chairperson

Signature Date

Albert Fox
Public Arbitrator

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Jeffrey C. Thompson
Non-Public Arbitrator

7/25/06
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