

Stipulated Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimants
Rolan and Ellen Duffield

Case Number: 03-01930

Name of the Respondents
Morgan Stanley DW, Inc.,
Wesley L. Gates, and
Stephen Warren.

Hearing Site: Chicago, Illinois

NATURE OF THE DISPUTE

Customer v. Member Firm and Associated Person

REPRESENTATION OF PARTIES

Diane A. Nygaard, Esq., of the Nygaard Law Firm, located in Leawood, Kansas, represented Claimants Rolan and Ellen Duffield, hereinafter collectively referred to as "Claimants."

John W. Shaw, Esq., Berkowitz Stanton Brandt Williams & Shaw, located in Kansas City, Missouri, represented Respondents Morgan Stanley DW, Inc. and Wesley L. Gates, hereinafter collectively referred to as "Respondents."

CASE INFORMATION

Claimants filed the Statement of Claim on or about March 18, 2003. Claimants filed a First Amended Statement of Claim on December 22, 2003. Claimants filed a Second Amended Statement of Claim on October 1, 2004. Claimants each signed the Uniform Submission Agreement on March 18, 2003.

Respondents filed a Joint Statement of Answer on July 28, 2003. Respondents filed a Joint Statement of Answer to the First Amended Statement of Claim on January 2, 2004. Respondents filed a Joint Statement of Answer to the Second Amended Statement of Claim on October 13, 2004. Respondent Morgan Stanley signed the Uniform Submission Agreement on January 8, 2004, Respondent Gates signed it on July 7, 2003, and Respondent Warren signed it on July 18, 2003.

CASE SUMMARY

Claimants asserted the following causes of action: negligence; violation of NASD Rules of Fair Practice; breach of supervision; breach of fiduciary duty; and violation of the Kansas Securities Act.

The causes of action relate to investments in mutual funds and stocks.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted the following defenses: failure to state a cause of action; failure to plead fraud with particularity; Respondents acted properly, diligently, and complied with all relevant laws, rules, regulation, and policies; Respondents acted in good faith; alleged damages have no causal relationship with any act committed by Respondents or legally attributable to Respondents; estoppel; claims are barred by ratification and affirmance; alleged damages were caused, in whole or in part, by Claimants; Claimants did not reasonably rely to their detriment upon any representation or action; the transactions were authorized; failure to allege any basis for punitive damages; failure to mitigate damages; Claimants' relationship with Respondents are of a contractual nature so any tort for economic losses is barred as a matter of law; waiver; assumption of risk; and contributory fault; negligence.

RELIEF REQUESTED

Claimants requested compensatory damages in the amount of \$322,698.00, punitive damages, interest at 15% per year, attorney's fees, costs, and any such relief the Panel deems just and equitable.

Respondents requested denial and dismissal of claims.

OTHER ISSUES CONSIDERED AND DECIDED

The Panel has been informed that the parties have agreed to resolve this matter. However, Respondents have asked the Panel for an Award recommending the expungement of all reference to the Arbitration from the registration records of Respondents Stephen Warren and Wesley Gates maintained by the NASD Central Registration Depository ("CRD"), with the understanding that, pursuant to NASD Notice of Members 99-09, Respondents must obtain confirmation from a court of competent jurisdiction before CRD will execute the expungement directive. Claimants have no objection to Respondents' request and have stipulated to said expungement.

The parties have 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 Panel rules as follows:

1. All claims and defenses presented by all parties are hereby dismissed with prejudice.
2. The Panel recommends the expungement of all references to the above captioned arbitration from Respondents Wesley Gates and Stephen Warren's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notices to Members 99-09 and 99-54, Respondents Gates and Warren must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.
3. Except for the forum fees associated with this matter, which are specified herein, the parties shall bear their own costs, including attorney's fees.
4. Any and all relief not specifically addressed herein, including punitive damages, is denied.

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	= \$ 300.00
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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, Morgan Stanley, as a party, is assessed the following fees:

Member surcharge	= \$ 1,700.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$ 2,750.00
<u>Total</u>	<u>= \$ 5,200.00</u>

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 at \$450.00	= \$ 450.00
One (1) Pre-hearing session with Panel at \$1,125.00	= \$ 1,125.00
Pre-hearing conference: April 12, 2004 1 session	
Total Forum Fees	= \$ 1,575.00

The Panel assessed \$787.50 of the forum fees to Rolan and Ellen Duffield and assessed \$787.50 of the forum fees to Morgan Stanley DW, Inc., Stephen Warren, and Wesley L. Gates, jointly and severally.

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.

Claimants requested 1 copy of an audio tape @ \$15.00	= \$ 15.00
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FEE SUMMARY

Claimants Rolan and Ellen Duffield are jointly and severally liable for:

Initial Filing Fee	= \$ 300.00
Administrative Costs	= \$ 15.00
Forum Fees	= \$ 787.50
Total Fees	= \$ 1,102.50
Less payments	= \$ 1,425.00
Refund Due from NASD Dispute Resolution	= \$ 322.50

Respondent Morgan Stanley DW, Inc. is solely liable for:

Member Fees	= \$ 5,200.00
Total Fees	= \$ 5,200.00
Less payments	= \$ 5,200.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondents Morgan Stanley DW, Inc., Stephen Warren, and Wesley L. Gates are jointly and severally liable for:

Forum Fee	= \$ 787.50
Total Fees	= \$ 787.50
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 787.50

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

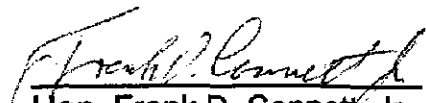
ARBITRATION PANEL

Robert A. Babcock, Esq.	-	Public Arbitrator, Presiding Chairperson
Hon. Frank D. Connett, Jr., Esq.,	-	Public Arbitrator
Robert J. Beck	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

Robert A. Babcock, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date



Hon. Frank D. Connett, Jr., Esq.,
Public Arbitrator

Signature Date

Robert J. Beck
Non-Public Arbitrator

Signature Date

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

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Robert A. Babcock, Esq.
Public Arbitrator, Presiding Chairperson

MARCH 15 '05
Signature Date

Hon. Frank D. Connett, Jr., Esq.,
Public Arbitrator

Signature Date

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Non-Public Arbitrator

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Public Arbitrator

Signature Date



Robert J. Beck
Non-Public Arbitrator

3/21/05
Signature Date

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