
Stipulated Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimant
Richard C. Gatson

Case Number: 03-03071

Names of the Respondents
Morgan Stanley DW, Inc., Scott
Svirsky and Victor Peach

Hearing Site: Boca Raton, Florida

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

REPRESENTATION OF PARTIES

For Richard C. Gatson, hereinafter referred to as "Claimant": Michael J. Cohen, Esq., Cohen & Greenberg, LLC, Weston, Florida.

For Morgan Stanley DW, Inc. ("MSDW"), Scott Svirsky ("Svirsky") and Victor Peach ("Peach"), hereinafter collectively referred to as "Respondents": Peter W. Homer, Esq., Homer & Bonner, P.A., Miami, Florida.

CASE INFORMATION

Statement of Claim filed on or about: April 25, 2003.

Claimant signed the Uniform Submission Agreement: April 22, 2003.

Statement of Answer filed by Respondent MSDW on or about: August 15, 2003.

Respondent MSDW signed the Uniform Submission Agreement: July 24, 2003.

Respondent Svirsky signed the Uniform Submission Agreement: July 21, 2003.

Respondent Peach signed the Uniform Submission Agreement: July 21, 2003.

Respondents Svirsky and Peach did not file Statements of Answer.

CASE SUMMARY

Claimant asserted the following causes of action: (1) Respondents violated the Florida Securities and Investor Protection Act (unsuitability); (2) Respondents violated the Florida Securities and Investor Protection Act (unauthorized trading); (3) Respondents breached their fiduciary duties; (4) Respondents made negligent misrepresentations; (5) Respondent MSDW was negligent in its supervision of its employees; and, (6) Respondents engaged in willful, wanton or gross misconduct involving commercial transactions. The causes of action relate to the purchase and sale of unspecified foreign equities, domestic equities, mutual funds and unit investment trusts in Claimant's account.

Unless specifically admitted in its Answer, Respondent MSDW denied all allegations of wrongdoing, denied any liability under any theory and asserted various defenses and affirmative defenses. Specifically, Respondent MSDW asserted the following: (1) all investments were suitable and authorized by Claimant; (2) Claimant was an active and knowledgeable participant

in formulating his investment plan; (3) there was no violation of any duty, industry standard or law by Respondents; and, (4) Respondents comported themselves in a manner wholly consistent with industry practices and legal standards.

RELIEF REQUESTED

Claimant requested compensatory damages in the amount of \$272,503.75, interest from May 11, 2000 and punitive damages in the amount of \$817,511.25.

Respondent MSDW requested that all claims be dismissed, that Respondent MSDW be awarded its costs, that Respondent MSDW be permitted to seek its attorney's fees in a court of law and that all references to this matter be expunged from the NASD Central Registration Depository ("CRD") records of Respondents Svirsky and Peach.

OTHER ISSUES CONSIDERED AND DECIDED

On or about September 9, 2003, Claimant notified NASD Dispute Resolution that Respondents Svirsky and Peach were dismissed, without prejudice.

On or about September 20, 2004, the parties notified NASD Dispute Resolution that this matter had been settled.

On or about September 28, 2004, the parties submitted a proposed Stipulated Award with a request that the Panel enter the Stipulated Award expunging this matter from Respondents Svirsky and Peach's NASD CRD records.

The parties have agreed that the Stipulated Award in this matter may be executed in counterpart copies.

AWARD

After considering the pleadings, the proposed Stipulated Award and the record in this matter, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

Claimant's claims for relief, including claims under Chapter 517 of the Florida Statutes, are dismissed, with prejudice.

Any and all claims for relief not specifically addressed herein, including Claimant's requests for punitive damages and attorney's fees, are denied, with prejudice.

The Panel recommends the expungement of all references to the above-captioned arbitration from Respondents Svirsky and Peach's public and non-public registration records maintained by the NASD CRD, with the understanding that pursuant to NASD Notices to Member 99-09 and 99-54, Respondents Svirsky and Peach must obtain confirmation from a court of competent jurisdiction before the NASD CRD will execute the expungement directive.

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 = \$ 500.00

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 persons at the time of the events giving rise to the dispute. In this matter, the member firm Morgan Stanley DW, Inc. is a party.

Member surcharge = \$2,800.00

Pre-hearing process fee = \$ 750.00

Hearing process fee = \$5,000.00

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

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:

September 23-24, 2004 and October 26, 2004, settled by parties = \$300.00

Pursuant to the agreement of the parties, the Panel has assessed the total three-day cancellation fees of \$300.00 to Respondent MSDW.

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.

No injunctive relief fees were incurred in this matter.

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 = \$ 450.00
Pre-hearing conference: May 27, 2004 1 session

One (1) Pre-hearing session with the Panel @ \$1,200.00 = \$ 1,200.00

Pre-hearing conference: November 26, 2003 1 session

Total Forum Fees = \$ 1,650.00

Pursuant to the agreement of the parties, the Panel has assessed the total forum fees of \$1,650.00 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 are 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 in this matter.

Fee Summary

Claimant is solely liable for:

Initial Filing Fee = \$ 500.00

Retained Hearing Session Deposit - Rule 10332 (f) of the Code = \$ 1,200.00

Total Fees = \$ 1,700.00

Less payments = \$ 1,700.00

Balance Due NASD Dispute Resolution = \$ 0.00

Respondent MSDW is solely liable for:

Member Fees = \$ 8,550.00

Forum Fees = \$ 1,650.00

Three-Day Cancellation Fees = \$ 300.00

Total Fees = \$10,500.00

Less payments = \$ 8,550.00

Balance Due NASD Dispute Resolution = \$ 1,950.00

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

ARBITRATION PANEL

Gary W. Pollack, Esq.	-	Public Arbitrator, Presiding Chairperson
Perry Phillips	-	Public Arbitrator
John M. Eadie	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

/s/

10/04/04

Gary W. Pollack, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

/s/

10/02/04

Perry Phillips
Public Arbitrator

Signature Date

/s/

09/30/04

John M. Eadie
Non-Public Arbitrator

Signature Date

10/14/04

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

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OCT 13 2004

FL ARBITRATION

Concurring Arbitrators' Signatures

Gary W. Pollack, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date


Perry Phillips
Public Arbitrator

10/2/04
Signature Date

John M. Eadie
Non-Public Arbitrator

Signature Date

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Gary W. Pollack, Esq.
Public Arbitrator, Presiding Chairperson

10/4/04
Signature Date

Perry Phillips
Public Arbitrator

Signature Date

John M. Eadie
Non-Public Arbitrator

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FL ARBITRATION


Concurring Arbitrators' Signatures

Gary W. Pollack, Esq.
Public Arbitrator, Presiding Chairperson

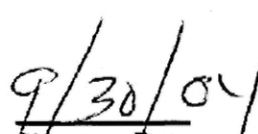
Signature Date

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Public Arbitrator

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John M. Eadie
Non-Public Arbitrator



Signature Date

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