

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Names of the Claimants

A. Keith Capley
Ramona L. Capley

Case Number: 03-03679

Names of the Respondents

Morgan Stanley DW, Inc.
William N. Cohron

Hearing Site: New Orleans, Louisiana

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

REPRESENTATION OF PARTIES

For A. Keith Capley and Ramona L. Capley, hereinafter collectively referred to as "Claimants": Chris K. Ralston, Esq. and Bruce V. Schewe, Esq., Phelps Dunbar LLP, New Orleans, Louisiana and J. Don Foster, Esq., Jackson, Foster & Graham, L.L.C., Mobile, Alabama.

For Morgan Stanley DW, Inc. ("Morgan") and William N. Cohron ("Cohron"), hereinafter collectively referred to as "Respondents": Carl S. Burkhalter, Esq., Maynard, Cooper & Gale, P.C., Birmingham, Alabama.

CASE INFORMATION

Statement of Claim filed on or about: May 19, 2003.

Claimants signed the Uniform Submission Agreement: May 19, 2003.

Statement of Answer filed by Respondents on or about: August 12, 2003.

Respondent Morgan signed the Uniform Submission Agreement: June 23, 2003.

Respondent Cohron did not file an executed Uniform Submission Agreement.

Claimants' Motion for the Panel to Bar Respondents From Presenting a Defense and to Exclude Their Untimely Exhibits filed on or about: September 29, 2004.

Respondents' Response to Claimants' Motion to Exclude filed on or about: October 1, 2004.

CASE SUMMARY

Claimants asserted the following causes of action: misrepresentations, omissions and concealment; unsuitability; negligent, reckless and/or intentional breach of contract and breach of fiduciary duty; common law fraud; statutory fraud under Section 6-5-100 of the Code of Alabama; deceit; failure to train, educate, monitor and/or supervise; failure to take corrective action; and, violations of the Alabama Securities Act. The causes of action relate to Claimants' investments in unit trusts in unspecified technology equities.

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

RELIEF REQUESTED

Claimants requested actual damages of \$200,000.00; punitive damages of \$500,000.00; interest; and, costs and attorneys' fees.

Respondents requested that the Statement of Claim be dismissed in its entirety, that all costs and forum fees in this case be assessed against Claimants, and that Respondents be awarded such other and further relief as is deemed just and proper.

OTHER ISSUES CONSIDERED AND DECIDED

Respondent Cohron did not file with NASD Dispute Resolution a properly executed submission to arbitration but is required to submit to arbitration pursuant to the NASD Code of Arbitration Procedure (the "Code") and, having answered the claim, appeared and testified at the hearing, is bound by the determination of the Panel on all issues submitted.

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

Claimants asserted a motion to bar Respondents from presenting a defense and, in the alternative, to exclude their exhibits not timely submitted. At the commencement of the evidentiary hearing, the arbitration panel issued a ruling which denied in part and granted in part the motion, allowing Respondents to present a defense, but excluding the documents not timely submitted to Claimants.

AWARD

After considering the pleadings, the testimony and evidence presented at the hearing, and the post-hearing submissions (if any), the undersigned arbitrators (the "Panel") have decided in full and final resolution of the issues submitted for determination as follows:

Respondent Morgan is liable and shall pay to Claimants the sum of \$65,180.00, plus interest at the New York prime rate from the date of the decision herein until the date of payment of the Award.

Claimants' claims against Respondent Cohron are dismissed, with prejudice.

Respondent Morgan is liable and shall pay to Claimants the sum of \$20,000.00 in attorneys' fees and expert witness fees pursuant to Ala. Code 1975 Section 8-6-19(a).

Any and all claims for relief not specifically addressed herein, including Claimants' request for punitive damages, are 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 = \$375.00

The Panel determined to maintain the preliminary waiver of the claim filing fee.

Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute. In this matter, the member firm is 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:

No adjournment fees were incurred 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.

No three-day cancellation fees were incurred in this matter.

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 arbitrator(s), including a pre-hearing conference with the arbitrator(s), that lasts four (4) hours or less. Fees associated with these proceedings are:

Two (2) Pre-hearing sessions with the Panel @ \$1,200.00 = \$2,400.00

Pre-hearing conferences: November 20, 2003 1 session
May 20, 2004 1 session

Four (4) Hearing sessions @ \$1,200.00 = \$4,800.00

Hearing Dates: October 4, 2004 2 sessions
October 5, 2004 2 sessions

Total Forum Fees	= \$7,200.00
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The Panel determined to waive the forum fee for the pre-hearing conference of May 20, 2004. The Panel has assessed the remainder of the forum fees of \$6,000.00 to Respondent Morgan.

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

Respondent Morgan is solely liable for:

Member Fees	= \$7,000.00
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Forum Fees	= \$6,000.00
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Total Fees	= \$13,000.00
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Less payments	= \$7,000.00
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Balance Due NASD Dispute Resolution	= \$6,000.00
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All balances are payable to NASD Dispute Resolution and are due upon receipt pursuant to Rule 10330(g) of the Code.

ARBITRATION PANEL

Claude F. Reynaud, Jr., Esq.	-	Public Arbitrator, Presiding Chair
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Kurt D. Steiner, CPA	-	Public Arbitrator
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Cheryl D. Cassreino	-	Non-Public Arbitrator
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Concurring Arbitrators' Signatures

_____/s/_____
Claude F. Reynaud, Jr., Esq.
Public Arbitrator, Presiding Chair

Signature Date

/s/

Kurt D. Steiner, CPA

Public Arbitrator

Signature Date

_____/s/

Cheryl D. Cassreino

Non-Public Arbitrator

Signature Date

October 18, 2004

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

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Total Forum Fees = \$7,200.00

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FEE SUMMARY

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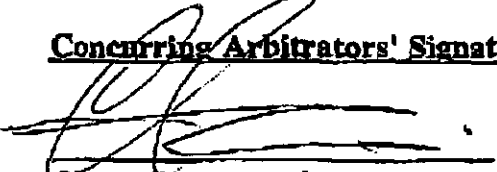
Member Fees	= \$7,000.00
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Total Fees	= \$13,000.00
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ARBITRATION PANEL

Claude F. Reynaud, Jr., Esq.	-	Public Arbitrator, Presiding Chair
Kurt D. Steiner, CPA	-	Public Arbitrator
Cheryl D. Cassareino	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

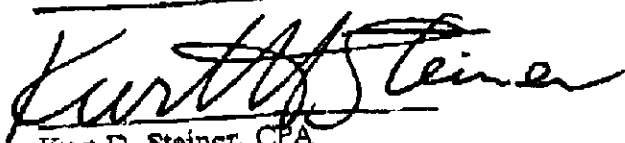

Claude F. Reynaud, Jr., Esq.
Public Arbitrator, Presiding Chair

10/15/04
Signature Date

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Kurt D. Steiner, CPA
Public Arbitrator

10/14/04
Signature Date

Cheryl D. Cassreino
Non-Public Arbitrator

Signature Date

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

20101018

OCT. 14. 2004 4:30PM NASD DISPUTE RESOLUTION

NO. 642 P. 6/6

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Kurt D. Steiner, CPA

Public Arbitrator

Cheryl D. Cassreino

Cheryl D. Cassreino

Non-Public Arbitrator

Signature Date

10/18/04

Signature Date

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