

AWARD
NASD Dispute Resolution

In the Matter of the Arbitration Between

Name of Claimant

Richard J. Moody, individually and as personal trustee
of the estate of Judith L. Moody

and

03-04609
Oklahoma City, Oklahoma

Name of Respondent

Morgan Stanley DW, Inc.

NATURE OF THE DISPUTE

Customer vs. Member Firm

REPRESENTATION OF PARTIES

Richard J. Moody, individually and as personal trustee of the estate of Judith L. Moody ("Claimant") was represented by A. Daniel Woska, Esq., of Woska & Hayes, LLP, Oklahoma City, Oklahoma.

Morgan Stanley DW, Inc. ("Respondent") was represented by Joseph C. Coates, III, Esq., of Greenberg Traurig, P.A., West Palm Beach, Florida.

CASE INFORMATION

The Statement of Claim was filed on or about June 25, 2003. The Submission Agreement of Claimant, Richard J. Moody, individually and as personal trustee of the estate of Judith L. Moody, was signed on or about May 20, 2003.

The Statement of Answer was filed by Respondent, Morgan Stanley DW, Inc., on or about April 6, 2004. The Submission Agreement of Respondent, Morgan Stanley DW, Inc., was signed on or about July 21, 2003.

CASE SUMMARY

Claimant asserted the following causes of action: breach of fiduciary duty; negligence; negligent supervision; negligent misrepresentation; and fraud. The causes of action related to the recommendation and purchase of various securities investments. Claimant alleged that Respondent failed to disclose that analyst reports were motivated by their desire to appease prospective and/or existing investment banking clients and provided Claimant with unsuitable investment advice.

Unless specifically admitted in its Answer, Respondent denied the allegations made in the Statement of Claim and asserted the following defenses: Morgan Stanley did not act with any intent to defraud Claimant or with any willful disregard for Claimant; Morgan Stanley did not represent or omit any material facts; the action or inaction of Claimant, but not Morgan Stanley, caused his alleged damages; Claimant failed to mitigate his alleged damages; Claimant ratified the transactions at issue; Claimant waived the claims asserted herein; and Claimant, by his own conduct, is estopped from asserting the claims herein.

RELIEF REQUESTED

Claimant requested an award of \$975,000.00 in compensatory damages, plus punitive damages, interest, costs, attorneys' fees, and such other damages the Panel deemed appropriate.

Respondent requested that the claims asserted against it be denied in their entirety and that it be awarded its costs, attorneys' fees and such other and further relief as the Panel deemed appropriate.

OTHER ISSUES CONSIDERED & DECIDED

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. In either case, the parties have agreed to receive conformed copies of the award while the original(s) remain on file with the NASD Dispute Resolution (the "NASD").

AWARD

After considering the pleadings, the testimony, and the evidence presented at the hearing, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. Respondent, Morgan Stanley DW, Inc., is liable for and shall pay to Claimant, Richard J. Moody, individually and as personal trustee of the estate of Judith L. Moody, the sum of \$1.00 (One Dollar and No Cents) in compensatory damages;
2. Respondent, Morgan Stanley DW, Inc., is liable for and shall pay to Claimant, Richard J. Moody, individually and as personal trustee of the estate of Judith L. Moody, the sum of \$13,813.50 (Thirteen Thousand Eight Hundred Thirteen Dollars and Fifty Cents) for costs;
3. That to the extent not specifically awarded or otherwise provided for above, all other claims and requests for relief by any party hereto are denied with prejudice; and

4. Other than the Forum Fees noted below, the parties shall each bear all other costs and expenses incurred by them in connection with this proceeding, including but not limited to attorneys fees.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Dispute Resolution will retain 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. In this matter, the member firm is Morgan Stanley DW, Inc.

Member surcharge	\$	2,250.00
Pre-hearing process fee	\$	750.00
Hearing process fee	\$	4,000.00
Total Member Fees	\$	<u>7,000.00</u>

Forum Fees and Assessments

The Arbitration Panel assesses forum fees for each hearing session conducted. A hearing 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:

2	Pre-hearing sessions with Panel	x	1,200.00	\$	2,400.00
	December 8, 2003	1	session		
	November 22, 2004	1	session		
5	Hearing sessions	x	1,200.00	\$	6,000.00
	February 15, 2005	2	sessions		
	February 16, 2005	2	sessions		
	February 17, 2005	1	Session		
	Total Forum Fees			\$	<u>8,400.00</u>

The Arbitration Panel has assessed \$8,400.00 of the forum fees to Morgan Stanley DW, Inc.

Fee Summary

Claimant, Richard J. Moody, individually and as personal trustee of the estate of Judith L. Moody, is liable for:

Initial Filing Fee	= \$	375.00
<u>Postponement Fee</u>	= \$	1,200.00
Total Fees	= \$	1,575.00
<u>Less payments</u>	= \$	-1,575.00
Balance Due NASD Dispute Resolution	= \$	0.00

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

Member Fees	= \$	7,000.00
<u>Forum Fees</u>	= \$	8,400.00
Total Fees	= \$	15,400.00
<u>Less payments</u>	= \$	-11,000.00
Balance Due NASD Dispute Resolution	= \$	4,400.00

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

ARBITRATION PANEL

Leslie L. Conner, Jr., Esq. - Public Arbitrator, Presiding Chair
Kelley L. Cornelius, Esq. - Public Arbitrator
Byron D. Parker - Non-Public Arbitrator

Concurring Arbitrators:

/s/ Leslie L. Conner, Jr., Esq.
Leslie L. Conner, Jr., Esq.
Public Arbitrator, Presiding Chair

02/25/05
Signature Date

/s/ Kelley L. Cornelius, Esq.
Kelley L. Cornelius, Esq.
Public Arbitrator

02/28/05
Signature Date

/s/ Byron D. Parker
Byron D. Parker
Non-Public Arbitrator

02/25/05
Signature Date

02/25/05
Date of service

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