

AWARD
NASD Dispute Resolution

In the Matter of the Arbitration Between

Name of Claimant

Ralph M. Snyder, II

and

03-04995
Nashville, Tennessee

Name of Respondents

Morgan Stanley DW Inc.
Richard P. Wilkinson

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

REPRESENTATION OF PARTIES

Ralph M. Snyder, II ("Claimant") appeared pro se.

Morgan Stanley DW Inc. and Richard P. Wilkinson ("Respondents") were represented by Richard Smith, Esq., Morgan Stanley DW Inc., New York, New York.

CASE INFORMATION

The Statement of Claim was filed on or about July 8, 2003. The Submission Agreement of Claimant Ralph M. Snyder, II was signed on or about July 2, 2003.

The Statement of Answer was filed by Respondents Morgan Stanley DW Inc. and Richard P. Wilkinson on or about September 5, 2003.

CASE SUMMARY

Claimant Ralph M. Snyder, II asserted the following causes of action: misrepresentations; omission of facts and suitability. The causes of action relate to the order execution of various securities investments. Claimant alleged that Respondents invested in high-risk stocks that were not suitable for him.

Claimant specifically stated the following:

I told Rick to invest my money wisely. I told Rick that I wanted the money to be invested so that it could create monthly income. I told Rick that I depended on this

money to live on since I was retired and not working due to health issues. I told him I really did not like stocks because they are too risky. I told him to not put my money into high risk. I also gave him an additional \$150,000 and explained to him that this was my retirement and to invest it wisely to make the money grow. I told him I wanted my money protected so I would not lose principle [sic]. At the time, Rick did not know what he was going to put the \$150,000 into. He invested it later.

Unless specifically admitted in their Answer, Respondents Morgan Stanley DW Inc. and Richard P. Wilkinson denied the allegations made in the Statement of Claim and asserted the following defenses: The Statement of Claim fails to state a cause of action upon which relief may be granted; Respondents did not act with any intent to defraud Claimant or with any willful disregard for him; Respondents did not misrepresent or omit material facts; The actions or inactions of Claimant, not Respondents caused the alleged damages of which he complains; Claimant failed to mitigate his alleged damages; Claimant ratified the transactions at issue; Claimant waived the claims asserted herein; Claimant by his conduct and under all the circumstances of this case is estopped from asserting the claims herein; Events occurred not caused by Respondents which constituted superseding or intervening causes of some or all of the alleged damages of which Claimant complains; Any and all duties owed to Claimant were fully and faithfully performed; Respondents were not negligent in the handling of Claimant's accounts; Claimant's losses, if any, were not proximately caused by Respondents; Claimant's losses are barred by, or should be reduced by, Claimant's own comparative and/or contributive negligence in the handling of his accounts; The handling of Claimant's accounts was in accordance and in compliance with applicable brokerage industry standards and guidelines and all regulatory requirements; Morgan Stanley had in place adequate supervisory procedures which it reasonably and diligently implemented and followed; These were non-discretionary accounts and Respondents had no fiduciary duty to the Claimant as a matter of law; and Any causes of action asserted by Claimant as arising pursuant to alleged violation of the rules of the NASD must be dismissed, since no private right of action exists at law for violation of these rules.

RELIEF REQUESTED

Claimant requested an award in the amount of \$44,100.00 in actual damages.

Respondents requested that the claims asserted against them be denied in their entirety and that they be awarded costs, expenses and such other and further relief as is just and proper.

OTHER ISSUES CONSIDERED & DECIDED

Respondents Morgan Stanley DW Inc. and Richard P. Wilkinson did not file with NASD Dispute Resolution properly executed submissions to arbitration but are required to submit to arbitration pursuant to Rule 10301 of the NASD Code of Arbitration Procedure (the "Code") and having answered the claim, appeared and testified at the hearing are bound by the determination of the arbitration panel on all issues submitted.

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 originals remain on file with the NASD Dispute Resolution (the "NASD").

AWARD

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

1. The claims asserted in this matter shall be and are hereby denied.
2. 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.
3. 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 or collect the non-refundable filing fees for each claim:

Initial claim filing fee = \$175.00

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	\$	875.00
Pre-hearing process fee	\$	750.00
Hearing process fee	\$	<u>1,000.00</u>
Total Member Fees	\$	2,625.00

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:

1	Pre-hearing session with Panel	x	600.00	\$	600.00
	December 11, 2003	1	session		
2	Hearing sessions	x	600.00	\$	1,200.00
	April 28, 2004	2	sessions		
	Total Forum Fees			\$	<u>1,800.00</u>

The Arbitration Panel has assessed \$900.00 of the forum fees to Ralph M. Snyder, II.

The Arbitration Panel has assessed \$900.00 of the forum fees jointly and severally to Morgan Stanley DW Inc. and Richard P. Wilkinson.

Fee Summary

Claimant, Ralph M. Snyder, II, shall be and hereby is liable for:

Initial Filing Fee	= \$	175.00
<u>Forum Fees</u>	= \$	<u>900.00</u>
Total Fees	= \$	1,075.00
<u>Less payments</u>	= \$	<u>-775.00</u>
Balance Due NASD Dispute Resolution	= \$	300.00

Respondent, Morgan Stanley DW Inc., shall be and hereby is liable for:

<u>Member Fees</u>	= \$	<u>2,625.00</u>
Total Fees	= \$	2,625.00
<u>Less payments</u>	= \$	<u>-2,625.00</u>
Balance Due NASD Dispute Resolution	= \$	0.00

Respondents, Morgan Stanley DW Inc. and Richard P. Wilkinson, shall be and hereby are jointly and severally liable for:

<u>Forum Fees</u>	= \$	<u>900.00</u>
Total Fees	= \$	900.00
<u>Less payments</u>	= \$	<u>-0.00</u>

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Balance Due NASD Dispute Resolution = \$ 900.00

All balances are due to NASD Dispute Resolution

ARBITRATION PANEL

Larry N. Fagan - Public Arbitrator, Presiding Chair
Joseph Charles Smolira, PhD - Public Arbitrator
Coleman Robert Perry, Jr., CFP - Non-Public Arbitrator

Concurring Arbitrators:

/s/ Larry N. Fagan
Larry N. Fagan
Public Arbitrator, Presiding Chair

05/12/04
Signature Date

/s/ Joseph Charles Smolira, PhD
Joseph Charles Smolira, PhD
Public Arbitrator

05/12/04
Signature Date

/s/ Coleman Robert, Jr., CFP
Coleman Robert Perry, Jr., CFP
Non-Public Arbitrator

05/12/04
Signature Date

05/12/04
Date of service

NASD Dispute Resolution
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Balance Due NASD Dispute Resolution - \$ 900.00

All balances are due to NASD Dispute Resolution

ARBITRATION PANEL

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Joseph Charles Smolira, PhD - Public Arbitrator
Coleman Robert Perry, Jr., CFP - Non-Public Arbitrator

Concurring Arbitrators:

Larry N. Fagan
Larry N. Fagan
Public Arbitrator, Presiding Chair

5-12-04
Signature Date

Joseph Charles Smolira, PhD
Joseph Charles Smolira, PhD
Public Arbitrator

Signature Date

Coleman Robert Perry, Jr., CFP
Coleman Robert Perry, Jr., CFP
Non-Public Arbitrator

Signature Date

NASD Dispute Resolution
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Balance Due NASD Dispute Resolution = \$ 900.00

All balances are due to NASD Dispute Resolution

ARBITRATION PANEL

Larry N. Fagan - Public Arbitrator, Presiding Chair
Joseph Charles Smolira, PhD - Public Arbitrator
Coleman Robert Perry, Jr., CFP - Non-Public Arbitrator

Concurring Arbitrators:

Larry N. Fagan
Public Arbitrator, Presiding Chair

Signature Date



Joseph Charles Smolira, PhD
Public Arbitrator

5-12-04

Signature Date

Coleman Robert Perry, Jr., CFP
Non-Public Arbitrator

Signature Date

NASD Dispute Resolution
Arbitration No. 03-04995
Award Page 5 of 5

Balance Due NASD Dispute Resolution = \$ 900.00

All balances are due to NASD Dispute Resolution

ARBITRATION PANEL

Larry N. Fagan - Public Arbitrator, Presiding Chair
Joseph Charles Smolira, PhD - Public Arbitrator
Coleman Robert Perry, Jr., CFP - Non-Public Arbitrator

Consenting Arbitrators:

Larry N. Fagan
Public Arbitrator, Presiding Chair

Signature Date

Joseph Charles Smolira, PhD
Public Arbitrator

Signature Date



Coleman Robert Perry, Jr., CFP
Non-Public Arbitrator

5-12-04

Signature Date