

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimants

Case Number: 03-05126

Richard R. Coleman, individually and as owner
of the Richard R. Coleman Roll-Over IRA

Name of the Respondents

Hearing Site: Charlotte, North Carolina

Morgan Stanley DW Inc.
Stephen Edward Smith

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

REPRESENTATION OF PARTIES

Claimant, Richard R. Coleman, individually and as owner of the Richard R. Coleman Roll-Over IRA, hereinafter referred to as "Claimant", was represented by John B. Veach, III, Esq., Falls & Veach, Asheville, North Carolina.

Respondents, Morgan Stanley DW Inc. ("Morgan Stanley") and Stephen Edward Smith ("Smith"), hereinafter collectively referred to as "Respondents", were represented by Julie Glynn, Esq., Morgan Stanley, New York, New York.

CASE INFORMATION

Statement of Claim filed on July 9, 2003.

Claimant signed the Uniform Submission Agreement on July 7, 2003.

Statement of Answer filed by Respondents on October 2, 2003

Respondent Smith signed the Uniform Submission Agreement on September 30, 2003.

A representative of Respondent Morgan Stanley executed the Uniform Submission Agreement on October 2, 2003.

CASE SUMMARY

Claimants asserted the following causes of action, among others: breach of duties of reasonable case, honesty, and disclosure; unsuitability; violation of securities laws; common law fraud; breach of fiduciary duty; and negligence. The causes of action relate to the purchase and sale of the following stocks, among others: Atmel Corporation; Broadvision; CMGI Inc.; Conexant Systems, Inc.; General Electric; Puma Technology, Inc.; Qualcomm, Inc.; and Sycamore Networks, Inc.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted the following defenses, among others: waiver, estoppel,

ratification, assumption of risk, any losses were the result of Claimant's conduct, failure to mitigate, Respondent Morgan Stanley had adequate supervisory procedures in place which were implemented and followed, and Claimant's accounts were handled pursuant to industry standards.

RELIEF REQUESTED

Claimants in his Statement of Claim requested:

Compensatory Damages	\$ 75,000.00
Punitive Damages	\$250,000.00
Interest	amount unspecified
Attorneys' Fees	amount unspecified
Other Costs	amount unspecified

Respondents in their Statement of Answer requested that the Panel dismiss the Statement of Claim in its entirety, and award such other and further relief as it deems appropriate.

OTHER ISSUES CONSIDERED AND DECIDED

At the hearing on the merits, Respondents moved to dismiss the failure to supervise claim. Claimant opposed Respondents' motion. The panel deferred ruling until the end of the hearing and hereby denies the motion to dismiss.

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 testimony and evidence presented at the hearing, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondents are jointly and severally liable to and shall pay to Claimant compensatory damages of \$46,000.00, plus the legal rate of interest in North Carolina on that amount. Interest shall be calculated on a simple basis and shall accrue from the date this Award is served until the date the Award is paid in full;
2. The parties shall bear their respective costs, including attorneys' fees, except as Fees are specifically addressed below; and
3. Any and all relief not specifically addressed herein, including punitive damages, is denied in its entirety.

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

Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firms that employed the associated person(s) at the time of the events giving rise to the dispute. Accordingly, Respondent Morgan Stanley is a party.

Member surcharge = \$1,700.00

Pre-hearing process fee = \$ 750.00

Hearing process fee = \$2,750.00

Total Member Fees = \$5,200.00

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 a single arbitrator @ \$450.00 = \$ 900.00

Pre-hearing conferences: June 14, 2004 1 session
July 9, 2004 1 session

One (1) Pre-hearing session with Panel @ \$1,125.00 = \$1,125.00

Pre-hearing conference: March 4, 2004 1 session

Three (3) Hearing sessions @ \$1,125.00 = \$3,375.00

Hearing Dates: August 24, 2004 2 sessions
August 25, 2004 1 session

Total Forum Fees = \$5,400.00

1. The Panel has assessed \$2,700.00 of the forum fees to Claimant.

2. The Panel has assessed \$2,700.00 of the forum fees to Respondent Morgan Stanley

FEES SUMMARY

1. Claimant is assessed and shall pay the following fees:

Initial Filing Fee = \$ 300.00

Forum Fees = \$2,700.00

Total Fees = \$3,000.00

Less payments = \$1,425.00

Balance Due NASD Dispute Resolution = \$1,575.00

2. Respondent Morgan Stanley is assessed and shall pay the following fees:

Member Fees	= \$5,200.00
<u>Forum Fees</u>	<u>= \$2,700.00</u>
Total Fees	= \$7,900.00
<u>Less payments</u>	<u>= \$5,200.00</u>
Balance Due NASD Dispute Resolution	= \$2,700.00

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

ARBITRATION PANEL

Donald G. Kennedy	-	Public Arbitrator, Presiding Chairperson
John A. Baynes, III	-	Public Arbitrator, Panelist
Duran G. McDonald	-	Non-Public Arbitrator, Panelist

Concurring Arbitrators' Signatures

Donald G. Kennedy
Donald G. Kennedy
Public Arbitrator, Presiding Chairperson

Sept. 9, 2004
Signature Date

John A. Baynos, III
John A. Baynos, III
Public Arbitrator, Panelist

Signature Date

Dissenting Arbitrator's Signature

Duran G. McDonald
Duran G. McDonald
Non-Public Arbitrator, Panelist

Signature Date

September 14, 2004
Date of Service (For NASD Dispute Resolution office use only)

Concurring Arbitrators' Signatures

Donald G. Kennedy
Public Arbitrator, Presiding Chairperson

Signature Date


John A. Baynes, III
Public Arbitrator, Panelist

9/9/04
Signature Date

Dissenting Arbitrator's Signature

Duran G. McDonald
Non-Public Arbitrator, Panelist

Signature Date

September 19, 2004
Date of Service (For NASD Dispute Resolution office use only)

Concurring Arbitrators' Signatures

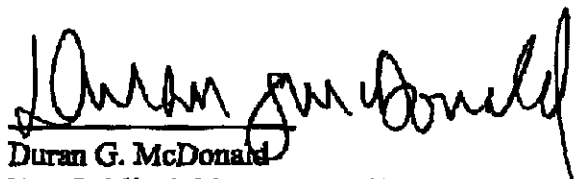
Donald G. Kennedy
Public Arbitrator, Presiding Chairperson

Signature Date

John A. Baynes, III
Public Arbitrator, Panelist

Signature Date

Dissenting Arbitrator's Signature



Duran G. McDonald
Non-Public Arbitrator, Panelist

9/14/04
Signature Date

September 14, 2004
Date of Service (For NASD Dispute Resolution office use only)