
Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Names of the Claimants

Paul A. Volz, individually
Paul A. Volz Rev. Lvg. Trust UAD 9/22/98

Case Number: 03-06280

Names of the Respondents

Morgan Stanley DW, Inc.
John Albrecht

Hearing Site: Orlando, Florida

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

REPRESENTATION OF PARTIES

For Paul A. Volz, individually, and Paul A. Volz Rev. Lvg. Trust UAD 9/22/98, hereinafter collectively referred to as "Claimants": Lonnie K. Martens, Esq., The Martens Law Firm, Tequesta, Florida.

For Morgan Stanley DW, Inc. ("MSDW") and John Albrecht ("Albrecht"), hereinafter collectively referred to as "Respondents": Todd A. Zuckerbrod, Esq., Greenberg Traurig, P.A., West Palm Beach, Florida. At the evidentiary hearing, Todd A. Zuckerbrod, Esq. withdrew as counsel for Respondent Albrecht. Thereafter, Respondent Albrecht did not appear.

CASE INFORMATION

Statement of Claim filed on or about: August 28, 2003.

Claimants signed the Uniform Submission Agreement on: August 7, 2003.

Statement of Answer and Defenses filed by Respondents on or about: November 26, 2003.

Respondent MSDW did not file an executed Uniform Submission Agreement.

Respondent Albrecht signed the Uniform Submission Agreement on: February 1, 2004.

CASE SUMMARY

Claimants alleged the following causes of action: 1) negligence and gross negligence; 2) violations of federal securities laws, specifically Section 10(b)(5), and Florida state securities laws, specifically Section 517.301; 3) breach of fiduciary duty; and 4) negligent supervision. The causes of action relate to investments in various securities, including unspecified equities.

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

RELIEF REQUESTED

Claimants requested: 1) statutory damages in the amount of \$1,514,446.00; 2) interest; 3) costs; 4) attorneys' fees; 5) punitive damages; and 6) such other relief the undersigned arbitrators (the "Panel") deemed just and proper.

Respondents requested: 1) dismissal of the Statement of Claim in its entirety; 2) assessment of all forum fees against Claimants; and 3) such other relief the Panel deemed just and proper.

OTHER ISSUES CONSIDERED AND DECIDED

Respondent MSDW did not file with NASD Dispute Resolution a properly executed submission agreement 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.

On or about March 11, 2005, Claimants filed a Motion to Strike Amended Witness and Exhibit List and Request for Punitive Damages and Sanctions. On or about March 21, 2005, Respondent MSDW filed its Response. On or about March 25, 2005, the Panel denied the motion to strike and deferred the motion for punitive damages and sanctions. After conclusion of the evidentiary hearing, the Panel denied the motion for punitive damages and sanctions.

Respondent Albrecht appeared at the evidentiary hearing on September 21, 2004. Thereafter, Respondent Albrecht did not appear. On or about September 22, 2004, Claimants filed a Motion to Dismiss Respondent Albrecht. At the evidentiary hearing on March 29, 2005, Claimants dismissed, with prejudice, their claims against Respondent Albrecht.

At the evidentiary hearing on or about September 24, 2004, Respondent MSDW moved for dismissal of Claimants' claims. The Panel denied the motion.

The parties 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, and the post-hearing submissions (if any), the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondent MSDW is liable and shall pay to Claimants compensatory damages in the amount of \$450,000.00, plus interest that shall accrue at the Florida statutory rate from September 23, 2004 until the date of payment of the Award. Respondent MSDW is liable on the claims of negligence, violation of Section

517.301, Florida Statutes, and negligent supervision. Respondent MSDW is not liable on the claims of gross negligence, violations of federal securities laws, specifically Section 10(b)(5), and breach of fiduciary duty.

2. Claimants' request for punitive damage is denied.
3. Respondent MSDW is liable and shall pay to Claimants attorneys' fees and costs, excluding Claimants' expert witness fees and expert witness costs, in an amount to be determined by a court of competent jurisdiction. Attorneys' fees are awarded pursuant to Chapter 517, Florida Statutes.
4. Respondent MSDW's request for attorneys' fees is denied.
5. Claimants and Respondent MSDW shall bear their respective expert witnesses fees and expert witnesses costs.
6. Any and all claims or relief not specifically addressed herein are denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD will retain or collect the non-refundable filing fees for each claim:

Initial claim filing fee	= \$ 500.00
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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. Accordingly, Respondent MSDW is a member firm and 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:

There were no adjournments requested during these proceedings for which fees were assessed.

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:

There were no three-day cancellation fees incurred during these proceedings.

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.

There were no injunctive relief fees assessed during these proceedings.

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 per session = \$ 450.00

Pre-hearing conference: August 24, 2004 1 session

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

Pre-hearing conference: March 10, 2004 1 session

Fifteen (15) Hearing sessions @ \$1,200.00 per session = \$18,000.00

Hearing Dates:

September 21, 2004	2 sessions
September 22, 2004	2 sessions
September 23, 2004	3 sessions
March 29, 2005	2 sessions
March 30, 2005	2 sessions
March 31, 2005	2 sessions
April 1, 2005	2 sessions

Total Forum Fees = \$19,650.00

The Panel has assessed the total forum fees in the amount of \$19,650.00 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 not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

There were no administrative costs incurred during these proceedings.

Fee Summary

Claimants are jointly and severally liable for:

<u>Initial Filing Fee</u>	= \$ 500.00
Total Fees	= \$ 500.00

<u>Less payments</u>	= \$ 500.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondent MSDW is solely liable for:

Member Fees	= \$ 8,550.00
<u>Forum Fees</u>	= \$19,650.00
Total Fees	= \$28,200.00
<u>Less payments</u>	= \$ 8,550.00
Balance Due NASD Dispute Resolution	= \$19,650.00

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

ARBITRATION PANEL

<i>Richard J. Fuller, CPA</i>	-	<i>Public Arbitrator, Presiding Chairperson</i>
<i>Theodore H. Focht, Esq.</i>	-	<i>Public Arbitrator</i>
<i>Marc S. Piven</i>	-	<i>Non-Public Arbitrator</i>

Concurring Arbitrators' Signatures

 /s/
Richard J. Fuller, CPA
Public Arbitrator, Presiding Chairperson

April 7, 2005
Signature Date

 /s/
Theodore H. Focht, Esq.
Public Arbitrator

April 7, 2005
Signature Date

 /s/
Marc S. Piven
Non-Public Arbitrator

April 7, 2005
Signature Date

April 8, 2005
Date of Service (For NASD Dispute Resolution office use only)

NASD Dispute Resolution

Arbitration No. 03-06280

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Theodore H. Focht, Esq.

Marc S. Piven

Public Arbitrator, Presiding Chairperson

Public Arbitrator

Non-Public Arbitrator

Concurring Arbitrators' Signatures

Richard J. Fuller, CPA

Public Arbitrator, Presiding Chairperson

4/7/05

Signature Date

Theodore H. Focht, Esq.

Public Arbitrator

Signature Date

Marc S. Piven

Non-Public Arbitrator

Signature Date

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

Received Time Apr. 7. 1:37PM

Apr. 7. 2005 3:22PM

NASD

No. 8275 P. 6/6

NASD Dispute Resolution

Arbitration No. 03-06280

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- Non-Public Arbitrator

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Richard J. Fuller, CPA
Public Arbitrator, Presiding Chairperson

Signature Date


Theodore H. Focht, Esq.
Public Arbitrator

April 7, 2005
Signature Date

Marc S. Piven
Non-Public Arbitrator

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NASD Dispute Resolution
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Public Arbitrator, Presiding Chairperson

Signature Date

Theodore H. Focht, Esq.
Public Arbitrator

Signature Date



Marc S. Piven
Non-Public Arbitrator

4/7/05

Signature Date

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