
Stipulated Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimant

James R. Shafer

Case Number: 03-06327

Names of the Respondents

Morgan Stanley Dean Witter, Inc.

James D. Jemison

Hearing Site: Orlando, Florida

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

REPRESENTATION OF PARTIES

For James R. Shafer, hereinafter referred to as "Claimant": James Richard Hooper, Esq., Hooper & Weiss, LLC, Orlando, Florida.

For Morgan Stanley Dean Witter, Inc. ("MSDW") and James D. Jemison ("Jemison"), hereinafter collectively referred to as "Respondents": Lisa Dodge, Esq., Morgan Stanley Law Division, Sarasota, Florida.

CASE INFORMATION

Statement of Claim filed on or about: April 15, 2003.

Claimant signed the Uniform Submission Agreement on: April 15, 2003.

Statement of Answer filed by Respondents on or about: October 31, 2003.

Respondent MSDW signed the Uniform Submission Agreement on: October 31, 2003.

Respondent Jemison signed the Uniform Submission Agreement on: November 3, 2003.

CASE SUMMARY

Claimant alleged the following causes of action: 1) unsuitability; 2) breach of contract; 3) breach of fiduciary duty; 4) *respondeat superior*; 5) violation of NASD conduct Rule 2110; 6) failure to supervise; 7) negligence; and 8) omissions and misrepresentations. The causes of action relate to investments in shares of mutual funds, including but not limited to, MSDW Aggressive Equity Fund, MSDW Dividend Growth Securities, and MSDW Information Fund.

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

RELIEF REQUESTED

Claimant requested: 1) compensatory damages in the amount of \$122,446.96; 2) punitive damages; 3) attorneys' fees; 4) costs; and 5) 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) expungement of the above reference arbitration proceeding from the Respondent Jemison's registration record maintained by the NASD Central Registration Depository ("CRD"); and 3) that the Panel award judgment in favor of Respondents.

OTHER ISSUES CONSIDERED AND DECIDED

On or about November 1, 2004, Claimant filed a notice of settlement and joint request to adjourn the evidentiary hearing scheduled for November 2- 5, 2004 with waiver of adjournment fee in the amount of \$1,125.00 and three-day cancellation fee in the amount of \$300.00. On or about November 1, 2004, the Panel granted the request, adjourned the evidentiary hearing, denied the request for waiver of adjournment fee and three-day cancellation fee, assessed the adjournment fee of \$1,125.00 in the amounts of \$562.50 to Claimant and \$562.50 jointly and severally to Respondents, and assessed the three-day cancellation fee of \$300.00 in the amount of \$150.00 to Claimant and \$150.00 jointly and severally to Respondents.

On or about February 7, 2005, Respondents filed their proposed Stipulated Award wherein Respondents requested entry of a Stipulated Award.

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 and the proposed Stipulated Award, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Jemison's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notices to Members 99-09 and 99-54, Respondent Jemison must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.
2. Claimant's claims for relief, including claims under Chapter 517 of the Florida Statutes, are dismissed with prejudice.
3. Any and all claims for relief not specifically addressed herein, including Claimant's requests for punitive damages and attorneys' fees, are denied with prejudice.

FEES

Pursuant to the NASD Code of Arbitration Procedure (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 = \$ 300.00

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. Accordingly, Respondent MSDW is a member firm and a party.

Member surcharge	= \$ 1,700.00
Pre-hearing process fee	= \$ 750.00
<u>Hearing process fee</u>	<u>= \$ 2,750.00</u>
Total Member Fees	= \$ 5,200.00

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

The Panel adjourned the evidentiary hearing scheduled for November 2 – 5, 2004 and assessed the adjournment fee of \$1,125.00 in the amounts of \$562.50 to Claimant and \$562.50 jointly and severally to Respondents.

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:

The Panel has assessed a three-day cancellation fee of \$300.00 as follows:

\$150.00 to Claimant.

\$150.00 to Respondents, jointly and severally.

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 Panel @ \$1,125.00 per session	= \$ 1,125.00
<u>Pre-hearing conference: March 9, 2004 1 session</u>	
Total Forum Fees	= \$ 1,125.00

The Panel has assessed forum fees in the amount of \$562.50 to Claimant

The Panel has assessed forum fees in the amount of \$562.50 to Respondents, jointly and severally.

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

Claimant is solely liable for:

Initial Filing Fee	= \$ 300.00
Forum Fees	= \$ 562.50
Three-Day Cancellation Fee	= \$ 150.00
<u>Adjournment Fee</u>	= \$ 562.50
Total Fees	= \$ 1,575.00
<u>Less payments</u>	= \$ 1,575.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondent MSDW is solely liable for:

<u>Member Fees</u>	= \$ 5,200.00
Total Fees	= \$ 5,200.00
<u>Less payments</u>	= \$ 5,200.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondents are jointly and severally liable for:

Adjournment Fee	= \$ 562.50
Forum Fees	= \$ 562.50
<u>Three-Day Cancellation Fee</u>	= \$ 150.00
Total Fees	= \$ 1,275.00
<u>Less payments</u>	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 1,275.00

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

ARBITRATION PANEL

<i>Cindy L. Anderson</i>	-	<i>Public Arbitrator, Presiding Chairperson</i>
<i>Pasquale Anthony Mercurio, MBA</i>	-	<i>Public Arbitrator</i>
<i>Alison Hardage</i>	-	<i>Non-Public Arbitrator</i>

Concurring Arbitrators' Signatures

/s/
Cindy L. Anderson
Public Arbitrator, Presiding Chairperson

February 21, 2005
Signature Date

/s/
Pasquale Anthony Mercurio, MBA
Public Arbitrator

February 23, 2005
Signature Date

/s/
Alison Hardage
Non-Public Arbitrator

February 23, 2005
Signature Date

February 25, 2005
Date of Service (For NASD Dispute Resolution office use only)

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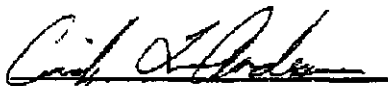
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Pasquale Anthony Mercurio, MBA
Alison Hardage

Public Arbitrator, Presiding Chairperson
Public Arbitrator
Non-Public Arbitrator

Concurring Arbitrators' Signatures



Cindy L. Anderson
Public Arbitrator, Presiding Chairperson



Signature Date

Pasquale Anthony Mercurio, MBA
Public Arbitrator

Signature Date

Alison Hardage
Non-Public Arbitrator

Signature Date

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

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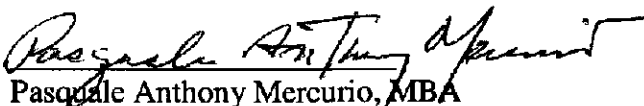
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<i>Alison Hardage</i>	-	<i>Non-Public Arbitrator</i>

Concurring Arbitrators' Signatures

Cindy L. Anderson
Public Arbitrator, Presiding Chairperson

Signature Date


Pasquale Anthony Mercurio, MBA
Public Arbitrator

23 February 2005
Signature Date

Alison Hardage
Non-Public Arbitrator

Signature Date

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Pasquale Anthony Mercurio, MBA
Alison Hardage

- Public Arbitrator, Presiding Chairperson
- Public Arbitrator
- Non-Public Arbitrator

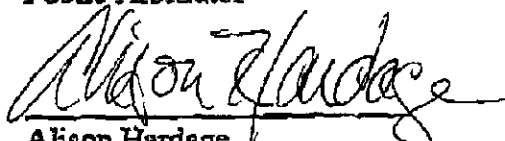
Concurring Arbitrators' Signatures

Cindy L. Anderson
Public Arbitrator, Presiding Chairperson

Signature Date

Pasquale Anthony Mercurio, MBA
Public Arbitrator

Signature Date


Alison Hardage
Non-Public Arbitrator

Feb. 23, 2005
Signature Date

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