

AWARD
NASD Dispute Resolution

In the Matter of the Arbitration Between

Name of Claimant

Midwest Neurosurgery Associates P.C. Profit Sharing Plan dtd
10/28/72

and

04-00113
Kansas City, Missouri

Name of Respondents

Morgan Stanley DW, Inc.

Nature of the Dispute: Customer vs. Member

REPRESENTATION OF PARTIES

Midwest Neurosurgery Associates P.C. Profit Sharing Plan dtd 10/28/72 ("Claimant") was represented by Barry D. Estell, Esq., Mission, Kansas.

Morgan Stanley DW, Inc. ("MSDW") was represented by John Shaw, Esq., Berkowitz, Stanton, Brandt, Williams & Shaw, Kansas City, Missouri.

CASE INFORMATION

The Statement of Claim was filed on or about January 7, 2004. Submission Agreement of Claimant Midwest Neurosurgery Associates P.C. Profit Sharing Plan dtd 10/28/72 was signed but not dated.

Statement of Answer was filed by Respondent Morgan Stanley DW, Inc. on or about March 12, 2004. Submission Agreement of Respondent Morgan Stanley DW, Inc. was signed on or about March 9, 2004.

CASE SUMMARY

Claimant asserted the following causes of action: breach of fiduciary duty, violations of the federal securities acts, fraud, misrepresentation, negligence, breach of contract and violation of NASD and Exchange rules. Claimant specifically alleged in the Statement of Claim:

Dr. Kaufman relied on his Financial Advisor to recommend investment grade bonds and to keep him apprised of any changes in the quality or character of those bonds. Bond ratings are not shown on purchase confirmations or monthly account statements leaving Dr. Kaufman dependent on his Financial Advisor for information. Hoffman misrepresented the quality of bonds sold to the Plan and failed to inform him of changes as the bonds deteriorated further in quality. When bond prices on the statement showed a decline in value, Dr. Kaufman was told that the securities were mispriced or only approximately priced and assured there were no problems with his portfolio.

Dr. Kaufman relied upon his Financial Advisor to be a financial advisor. He was shocked to receive a letter from Morgan Stanley informing him that his Advisor, John Hoffman, has suddenly retired. Dr. Kaufman had maintained the account with him for many years and thought a personal letter or even a phone call from Mr. Hoffman would have been more appropriate. Concerned, he began a review of the bond portfolio which led him to retain counsel. A complaint letter asking for rescission was sent to Morgan Stanley in May 2003 and a follow-up the next month. The courtesy of a response was never provided requiring the filing of this arbitration complaint after six months of stonewalling by Respondent.

Respondents denied the allegations set forth in the Statement of Claim. Respondents specifically stated in their Statement of Answer:

Before the present issue arose, Claimant made no other complaint regarding the handling of the account it held through Morgan Stanley for more than twenty years. Now, apparently suffering from buyer's remorse after certain of the investments declined in value and angered by Mr. Hoffman's retirement, Claimant has filed the present claims seeking to set aside a handful of transactions purchased by Claimant more than four years ago. The evidence will establish that Claimant's assertions in this case are wholly without merit. Rather, Morgan Stanley acted properly and in good faith at all times, and did not engage in any misconduct with respect to Claimant.

RELIEF REQUESTED

Claimant requested an award of unspecified damages, plus punitive damages, attorney's fees, interest, costs and expenses.

Respondent requested that the claims asserted against it be denied in their entirety and that it be awarded their costs and attorneys' fees.

OTHER ISSUES CONSIDERED & DECIDED

At the hearing, the Panel considered Claimant's Motion for Sanctions and Respondents objections thereto. After considering the arguments of the parties, the Arbitration Panel denied Claimant's Motion.

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 and the post-hearing submissions, if any, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. Respondent Morgan Stanley Dean Witter & Co. is liable for and shall pay to Claimant Midwest Neurosurgery Associates P.C. Profit Sharing Plan dtd 10/28/72 Profit Sharing Plan dtd 10/28/27 the sum of \$100,000 (**one hundred thousand dollars and no cents**) as compensatory damages.
2. Interest at the rate of 9% per annum is awarded on the above stated sum from the date of this Award until paid.
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.
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, not specifically awarded or otherwise provided for above.

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 = \$250.00

Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute. In this matter, the member firm(s) is Morgan Stanley DW, Inc.

Member surcharge	\$	1,500.00
Pre-hearing process fee	\$	750.00
Hearing process fee	\$	2,200.00
Total Member Fees	\$	4,450.00

Adjournment Fees

Adjournments requested during these proceedings:

April 26-28, 2005, joint adjournment request (waived)	= \$1,000.00
October 10-11, 2005, adjournment requested by Morgan Stanley DW, Inc. (waived)	= \$1,000.00

Forum Fees and Assessments

The Arbitration Panel assesses forum fees for each hearing session conducted or each decision rendered on a discovery-related motion on the papers. A hearing 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:

1 Pre-hearing session(s) with Panel	@	1,000.00	\$	1,000.00
June 29, 2004	1 session			
6 Hearing sessions	@	1,000.00	\$	6,000.00
February 21, 2006	2 sessions			
February 22, 2006	2 sessions			
February 23, 2006	2 sessions			
Total Forum Fees			\$	7,000.00

The Arbitration Panel has assessed \$3,500.00 of the forum fees to Midwest Neurosurgery Associates P.C. Profit Sharing Plan dtd 10/28/72.

The Arbitration Panel has assessed \$3,500.00 of the forum fees to Morgan Stanley DW, Inc.

Fee Summary

Claimant, Midwest Neurosurgery Associates P.C. Profit Sharing Plan dtd 10/28/72, is liable for:

Initial Filing Fee	= \$	250.00
<u>Forum Fees</u>	= \$	3,500.00
Total Fees	= \$	3,750.00
<u>Less payments</u>	= \$	-1,425.00
Balance Due NASD Dispute Resolution	= \$	2,325.00

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

Member Fees	= \$	4,450.00
<u>Forum Fees</u>	= \$	3,500.00
Total Fees	= \$	7,950.00
<u>Less payments</u>	= \$	-4,950.00
Balance Due NASD Dispute Resolution	= \$	3,000.00

All balances are due to NASD Dispute Resolution

ARBITRATION PANEL

James A. Hayes - Public Arbitrator, Presiding Chair
James R. Shetlar, Esq. - Public Arbitrator
Leslie J. Filson - Non-Public Arbitrator

Concurring Arbitrators:

/s/ James A. Hayes
James A. Hayes
Public Arbitrator, Presiding Chair

03/07/06
Signature Date

/s/ James R. Shetlar
James R. Shetlar, Esq.
Public Arbitrator

03/07/06
Signature Date

/s/ Leslie J. Filson
Leslie J. Filson
Non-Public Arbitrator

03/07/06
Signature Date

Date of Service (For NASD office use only)

NASD Dispute Resolution
 Arbitration No. 04-00113
 Award Page 5 of 5

Fee Summary

Claimant, Midwest Neurosurgery Associates P.C. Profit Sharing Plan dtd 10/28/72, is liable for:

Initial Filing Fee	= \$	250.00
<u>Forum Fees</u>	= \$	3,500.00
Total Fees	= \$	3,750.00
<u>Less payments</u>	= \$	-1,425.00
Balance Due NASD Dispute Resolution	= \$	2,325.00

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

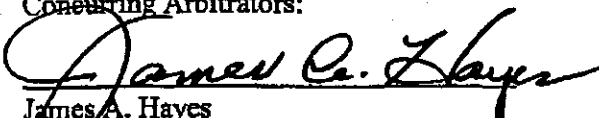
Member Fees	= \$	4,450.00
<u>Forum Fees</u>	= \$	3,500.00
Total Fees	= \$	7,950.00
<u>Less payments</u>	= \$	-4,950.00
Balance Due NASD Dispute Resolution	= \$	3,000.00

All balances are due to NASD Dispute Resolution

ARBITRATION PANEL

James A. Hayes - Public Arbitrator, Presiding Chair
 James R. Shetlar, Esq. - Public Arbitrator
 Leslie J. Filson - Non-Public Arbitrator

Consenting Arbitrators:


 James A. Hayes
 Public Arbitrator, Presiding Chair

3-7-06
 Signature Date

James R. Shetlar, Esq.
 Public Arbitrator

Signature Date

Leslie J. Filson
 Non-Public Arbitrator

Signature Date

Date of Service (For NASD office use only)

Fee Summary

Claimant, Midwest Neurosurgery Associates P.C. Profit Sharing Plan dtd 10/28/72, is liable for:

Initial Filing Fee	= \$	250.00
<u>Forum Fees</u>	= \$	3,500.00
Total Fees	= \$	3,750.00
<u>Less payments</u>	= \$	-1,425.00
Balance Due NASD Dispute Resolution	= \$	2,325.00

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

Member Fees	= \$	4,450.00
<u>Forum Fees</u>	= \$	3,500.00
Total Fees	= \$	7,950.00
<u>Less payments</u>	= \$	-4,950.00
Balance Due NASD Dispute Resolution	= \$	3,000.00

All balances are due to NASD Dispute Resolution

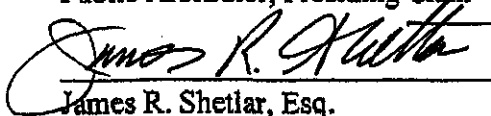
ARBITRATION PANEL

James A. Hayes - Public Arbitrator, Presiding Chair
James R. Shetlar, Esq. - Public Arbitrator
Leslie J. Filson - Non-Public Arbitrator

Concurring Arbitrators:

James A. Hayes
Public Arbitrator, Presiding Chair

Signature Date


James R. Shetlar, Esq.
Public Arbitrator

3/7/06
Signature Date

Leslie J. Filson
Non-Public Arbitrator

Signature Date

Date of Service (For NASD office use only)

NASD Dispute Resolution
Arbitration No. 04-00113
Award Page 5 of 5

Fee Summary

Claimant, Midwest Neurosurgery Associates P.C. Profit Sharing Plan dtd 10/28/72, is liable for:

Initial Filing Fee	= \$	250.00
<u>Forum Fees</u>	= \$	3,500.00
Total Fees	= \$	3,750.00
<u>Less payments</u>	= \$	-1,425.00
Balance Due NASD Dispute Resolution	= \$	2,325.00

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

Member Fees	= \$	4,450.00
<u>Forum Fees</u>	= \$	3,500.00
Total Fees	= \$	7,950.00
<u>Less payments</u>	= \$	-4,950.00
Balance Due NASD Dispute Resolution	= \$	3,000.00

All balances are due to NASD Dispute Resolution

ARBITRATION PANEL

James A. Hayes - Public Arbitrator, Presiding Chair
James R. Shetlar, Esq. - Public Arbitrator
Leslie J. Filson - Non-Public Arbitrator

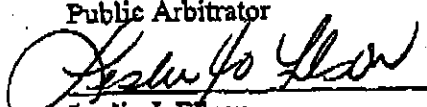
Concurring Arbitrators:

James A. Hayes
Public Arbitrator, Presiding Chair

Signature Date

James R. Shetlar, Esq.
Public Arbitrator

Signature Date



Leslie J. Filson
Non-Public Arbitrator

3-7-06
Signature Date

Date of Service (For NASD office use only)