
Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimant

Betty J. Colston

Case Number: 04-00781

Names of the Respondents

Morgan Stanley DW, Inc.
Clarence William Snyder III

Hearing Site: Tampa, Florida

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

REPRESENTATION OF PARTIES

For Betty J. Colston, hereinafter referred to as "Claimant": James H. Burgess, Jr., Esq. and Douglas J. Harrell, Esq., Burgess, Harrell, Mancuso, Olson & Colton, P.A., Sarasota, Florida.

For Morgan Stanley DW, Inc. ("MSDW") and Clarence William Snyder III ("Snyder"), hereinafter collectively referred to as "Respondents": Michael L. Chapman, Esq. and Bradford D. Kimbro, Esq., Holland & Knight, LLP, Tampa, Florida, and Lisa B. Dodge, Esq. with Respondent MSDW, Sarasota, Florida.

CASE INFORMATION

Statement of Claim filed on or about: February 5, 2004.

Claimant signed the Uniform Submission Agreement on: November 20, 2003.

Statement of Answer filed by Respondents on or about: March 31, 2004.

Respondent MSDW signed the Uniform Submission Agreement on: March 29, 2004.

Respondent Snyder signed the Uniform Submission Agreement on: April 12, 2004.

CASE SUMMARY

Claimant asserts claims against Respondents for federal securities fraud, Florida securities fraud, common law fraud, negligence and breach of fiduciary duty, breach of fiduciary duty, breach of contract, and unjust enrichment arising from Claimant's investment of approximately \$270,00.00 with Respondents in May 2000. The investments include shares of mutual funds in Morgan Stanley Dividend Growth, Davis New York Venture and Morgan Stanley Total Return.

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 and rescissionary damages in the amount of \$539,954.00; 2) interest at the legal rate provided by law; 3) referral of Claimant to the Circuit Court of the Twelfth Judicial Circuit in and for Sarasota County, Florida with respect the entitlement of Claimant to costs and attorneys' fees as provided in the Florida Securities and Investor Protection Act; and 4) punitive damages.

Respondents requested: 1) dismissal of the Statement of Claim in its entirety; 2) expungement of all reference to the above captioned arbitration from Respondents' registration records maintained by the NASD Central Registration Depository ("CRD"); and 3) that the Panel award judgment in favor of Respondents.

OTHER ISSUES CONSIDERED AND DECIDED

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. Claimant's claims, including any statutory claims, are denied in their entirety.
2. The parties agreed that the issue of attorneys' fees was not submitted to arbitration. Therefore, the Panel defers to a court of competent jurisdiction the determination of the prevailing party and the entitlement of any party to and the amount of a reasonable attorneys' fee.
3. Respondents' request for expungement is denied.
4. Any and all claims for relief, including Claimant's request for punitive damages, not specifically addressed herein are denied.

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 = \$ 375.00

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	= \$2,250.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$4,000.00

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 assessed 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 Panel @ \$1,200.00 per session	= \$1,200.00
Pre-hearing conference: July 27, 2004 1 session	

Four (4) Hearing sessions @ \$1,200.00 per session	= \$4,800.00
Hearing Dates: February 8, 2005 2 sessions	
February 9, 2005 2 sessions	

Total Forum Fees	= \$6,000.00
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The Panel has assessed forum fees in the amount of \$3,000.00 to Claimant.

The Panel has assessed forum fees in the amount of \$3,000.00 jointly and severally to Respondents.

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	= \$ 375.00
Forum Fees	= \$3,000.00
Total Fees	= \$3,375.00
Less payments	= \$1,575.00
Balance Due NASD Dispute Resolution	= \$1,800.00

Respondent MSDW is solely liable for:

Member Fees	= \$7,000.00
Total Fees	= \$7,000.00
Less payments	= \$7,000.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondents are jointly and severally liable for:

Forum Fees	= \$3,000.00
Total Fees	= \$3,000.00
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$3,000.00

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

ARBITRATION PANEL

<i>Langfred W. White, Esq.</i>	-	<i>Public Arbitrator, Presiding Chairperson</i>
<i>Beverly S. Gordon, Esq.</i>	-	<i>Public Arbitrator</i>
<i>William H. McCullough</i>	-	<i>Non-Public Arbitrator</i>

Concurring Arbitrators' Signatures

/s/
Langfred W. White, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

/s/
Beverly S. Gordon, Esq.
Public Arbitrator

Signature Date

/s/
William H. McCullough
Non-Public Arbitrator

Signature Date

February 23, 2005
Date of Service (For NASD Dispute Resolution office use only)

Feb. 18. 2005 12:28PM

NASD

No. 5427 P. 6/6

NASD Dispute Resolution

Arbitration No. 04-00781

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Beverly S. Gordon, Esq.
Public Arbitrator

2/18/05
Signature Date

William H. McCullough
Non-Public Arbitrator

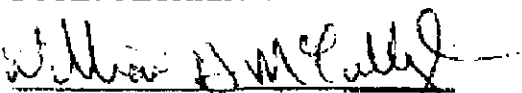
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NASD Dispute Resolution
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Beverly S. Gordon, Esq.
Public Arbitrator

Signature Date



William H. McCullough
Non-Public Arbitrator

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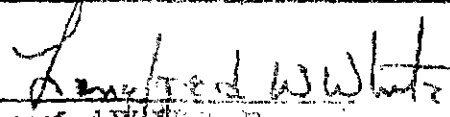
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Beverly S. Gordon, Esq.	-	Public Arbitrator
William H. McCullough	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures


Langfred W. White, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date