

Stipulated Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Robert Sears, Sr. and Lenora Sears, Claimants v. Morgan Stanley DW Inc., Patrick R. Langone, Jr., and Richard J. Dotolo, Respondents

Case Number: 04-00912

Hearing Site: San Diego, California

Nature of the Dispute: Customers v. Member and Associated Persons

REPRESENTATION OF PARTIES

For Claimants:

William S. Bonnheim, Esq.
William S. Bonnheim, PLC
Palm Desert, California

For Respondents:

Kevin K. Fitzgerald, Esq.
Jones, Bell, Abbott, Fleming & Fitzgerald,
L.L.P.
Los Angeles, California

CASE INFORMATION

Statement of Claim filed: February 9, 2004

Claimants Robert Sears, Sr. and Lenora Sears' Joint Uniform Submission Agreement signed:
December 2, 2003

Respondents' Joint Statement of Answer filed: April 7, 2004

Respondent Morgan Stanley DW Inc.'s Uniform Submission Agreement signed: April 1, 2004

Respondent Richard J. Dotolo's Uniform Submission Agreement signed: March 22, 2004

Respondent Patrick R. Langone, Jr.'s Uniform Submission Agreement signed: March 29, 2004

CASE SUMMARY

Claimants alleged breach of fiduciary duty, failure to supervise, violations of federal and state securities laws, violations of NASD and NYSE Rules, elder abuse, and unfair or deceptive practices against senior citizens. The dispute involved technology based Unit Investment Trusts, three Class B speculative and growth mutual funds (Van Kampen Emerging Growth, Alliance Premiere Growth, and Putnam International Growth), and technology stocks in Atmel Corp, Brocade, Cisco Systems, Inc., Internap Network Services, Corp, Network Appliance Inc, and Viasystems.

Respondents denied the allegations of wrongdoing set forth in the Claimants' Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

Claimants requested general and compensatory damages in the amount of not less than \$115,000.00, treble damages, all profits Respondents generated from the Accounts, lost opportunity cost, interest at the legal rate, and costs, including attorney's fees.

Respondents requested dismissal of the Claimants' Statement of Claim in its entirety, the expungement of all reference to the above captioned arbitration from Respondents Patrick R. Langone, Jr. and Richard J. Dotolo's registration records maintained by the NASD Central Registration Depository ("CRD"), and that Claimants be required to pay costs incurred by Respondents in this matter.

OTHER ISSUES CONSIDERED AND DECIDED

On February 27, 2004, Claimants Robert Sears Sr. and Lenora Sears and Claimants' counsel signed a Waiver Agreement expressly waiving any and all rights and benefits under California Civil Code Section 1542 and the California Ethical Standards for Neutral Arbitrators.

On March 5, 2004, Respondents' counsel signed a Waiver Agreement on Respondents' behalf expressly waiving any and all rights and benefits under California Civil Code Section 1542 and the California Ethical Standards for Neutral Arbitrators.

On February 8, 2005, NASD Dispute Resolution received notice that this matter settled in its entirety. Claimants and Respondents have jointly entered into a confidential settlement agreement pursuant to which Claimants have agreed to dismiss their claims against Respondents with prejudice. The parties have agreed to jointly request that an Award be issued expunging the references to this proceeding from the CRD records of Respondents Patrick R. Langone, Jr. and Richard J. Dotolo.

The parties agreed that the Stipulated Award in this matter may be executed in counterpart copies or that a handwritten, signed Stipulated Award may be entered.

AWARD

After considering the pleadings and the Parties' request for this Stipulated Award, the Panel decided in full and final resolution of the issues submitted for determination as follows:

1. The Panel accepts the dismissal of each and every one of Claimants' claims asserted against Respondents with prejudice.
2. The panel recommends the expungement of all reference to the above captioned arbitration from Respondent Patrick R. Langone, Jr.'s registration records maintained by CRD, with the understanding that pursuant to NASD Notices to Members 99-09 and 99-54, Respondent Patrick R. Langone, Jr. must obtain confirmation from a court of competent jurisdiction before CRD will execute the expungement directive.
3. The panel recommends the expungement of all reference to the above captioned arbitration from Respondent Richard J. Dotolo's registration records maintained by CRD, with the understanding that pursuant to NASD Notices to Members 99-09 and 99-54, Respondent Richard J. Dotolo must obtain confirmation from a court of competent jurisdiction before CRD will execute the expungement directive.
4. All other relief not expressly granted is hereby denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Dispute Resolution received or will collect the non-refundable filing fees for each claim as follows:

Initial claim filing fee	= \$ 300.00
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Member Fees

Member fees are assessed to each member firm that is either a party in the matter or an employer of a respondent associated person at the time of the events which gave rise to the dispute, claim, or controversy. Accordingly, the member firm Morgan Stanley DW Inc. is a party and the following fees are assessed:

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

Three-Day Cancellation Fees

Three-day cancellation fees apply when a hearing on the merits is postponed or settled within three business days before the start of the first scheduled hearing session. The following three-day cancellation fees are assessed:

Cancellation of March 1-4, 2005 hearings dates:	= \$ 300.00
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1. The Panel assessed \$150.00 of the three-day cancellation fee jointly and severally to Claimants.
2. The Panel assessed \$150.00 of the three-day cancellation fee jointly and severally to Respondents.

Forum Fees and Assessments

The Panel assessed a forum fee for each pre-hearing conference or hearing session conducted. A pre-hearing conference and hearing session is any meeting between the parties and the Panel. The following fees are assessed:

One (1) Pre-hearing conference session with the Panel @ \$1,125.00/session	= \$ 1,125.00
Pre-hearing conference: August 2, 2004	1 session
Total Forum Fees	= \$ 1,125.00

1. The Panel assessed \$562.50 of the forum fees jointly and severally to Claimants.
2. The Panel assessed \$562.50 of the forum fees jointly and severally to Respondents.

Fee Summary

1. Claimants Robert Sears Sr. and Lenora Sears are charged jointly and severally with the following fees and costs:

Initial Filing Fee	= \$ 300.00
Three-Day Cancellation Fees	= \$ 150.00
Retained Deposit Pursuant to Rule 10332(f)	= \$ 562.50
Forum Fees	= \$ 562.50
Total Fees	= \$ 1,575.00
Less payments	= \$(1,575.00)
Balance Due NASD Dispute Resolution	= \$ 0.00

2. Respondent Morgan Stanley DW Inc. is charged with the following fees and costs:

Member Fees	= \$ 5,200.00
Less payments	= \$ (5,200.00)
Balance Due NASD Dispute Resolution	= \$ 0.00

3. Respondents Morgan Stanley DW Inc., Patrick R. Langone, Jr. and Richard J. Dotolo are charged jointly and severally with the following fees and costs:

Forum Fees	= \$ 562.50
Three-Day Cancellation Fees	= \$ 150.00
Total Fees	= \$ 712.50
Less payments by Morgan Stanley DW Inc.	= \$(712.50)
Balance Due NASD Dispute Resolution	= \$ 0.00

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

ARBITRATION PANEL

Katherine Jane Morris	-	Public Arbitrator, Presiding Chair
William C. Stewart, Jr., J.D	-	Public Arbitrator
Christopher J. Rogers	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

Katherine Jane Morris
Katherine Jane Morris
Chair, Public Arbitrator

4/19/05
Signature Date

William C. Stewart, Jr., J.D
Public Arbitrator

Signature Date

Dissenting Arbitrator's Signature

Christopher J. Rogers
Non-Public Arbitrator

Signature Date

4/25/05
Date of Service


ARBITRATION PANEL

Katherine Jane Morris	-	Public Arbitrator, Presiding Chair
William C. Stewart, Jr., J.D.	-	Public Arbitrator
Christopher J. Rogers	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

Katherine Jane Morris
Chair, Public Arbitrator

Signature Date



William C. Stewart, Jr., J.D.
Public Arbitrator

18 April 2005

Signature Date

Dissenting Arbitrator's Signature

Christopher J. Rogers
Non-Public Arbitrator

Signature Date

4/25/05

Date of Service

ARBITRATION PANEL

Katherine Jane Morris	-	Public Arbitrator, Presiding Chair
William C. Stewart, Jr., J.D	-	Public Arbitrator
Christopher J. Rogers	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

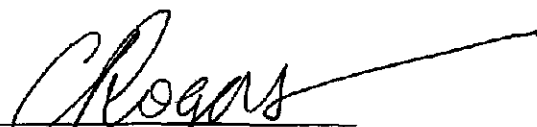
Katherine Jane Morris
Chair, Public Arbitrator

Signature Date

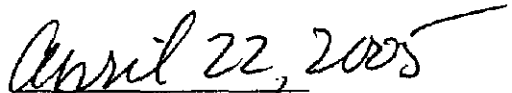
William C. Stewart, Jr., J.D
Public Arbitrator

Signature Date

Dissenting Arbitrator's Signature



Christopher J. Rogers
Non-Public Arbitrator



Signature Date



Date of Service