

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Names of the Claimants

Case Number: 04-01503

Andrew J. Andrejewski and
Gail E. Andrzejewski, individually and as
owners of their IRA accounts

Name of the Respondent

Hearing Site: Charlotte, North Carolina

Morgan Stanley DW, Inc.

Nature of the Dispute: Customers vs. Member.

REPRESENTATION OF PARTIES

Claimants, Andrew J. Andrejewski and Gail E. Andrzejewski, individually and as owners of their IRA accounts, hereinafter collectively referred to as "Claimants", were represented by John B. Veach, III, Esq., Falls & Veach, Asheville, North Carolina.

Respondent, Morgan Stanley DW, Inc., hereinafter referred to as "Respondent", was represented by Thomas E. Ullrich, Esq., Wharton, Aldhizer & Weaver, P.L.C., Harrisonburg, Virginia.

CASE INFORMATION

Statement of Claim filed on February 26, 2004.

Claimants signed the Uniform Submission Agreement on February 25, 2004.

Statement of Answer filed by Respondent on May 14, 2004.

Respondent did not file a Uniform Submission Agreement with NASD Dispute Resolution.

Respondent filed a Motion to Dismiss on March 19, 2005.

Claimants filed a Response to the Motion to Dismiss on April 6, 2005.

Respondent filed a Reply to the Response to the Motion to Dismiss on April 14, 2005.

CASE SUMMARY

Claimants asserted the following causes of action, among others: breach of duties of reasonable care, honesty, and disclosure; suitability; common law fraud; breach of fiduciary duty; negligence; *respondeat superior*; and misrepresentation. The causes of action relate to the purchase and sale of various securities, including mutual funds and high-tech stocks.

Unless specifically admitted in its Answer, Respondent denied the allegations made in the Statement of Claim and asserted the following defenses, among others: failure to state a claim upon which relief may be granted; ratification; estoppel; failure to mitigate; any losses were the

result of superseding and intervening causes; and adequate supervisory procedures were in place.

RELIEF REQUESTED

Claimants in their Statement of Claim requested:

Compensatory Damages	\$300,000.00
Punitive Damages	amount unspecified
Interest	amount unspecified
Attorneys' Fees	amount unspecified
Other Costs	amount unspecified

Respondent in its Statement of Answer requested that the Panel dismiss the Statement of claim, and grant Respondent costs and expenses and such other relief as is just and proper.

OTHER ISSUES CONSIDERED AND DECIDED

Respondent did not file with NASD Dispute Resolution, a properly executed submission to arbitration but is required to submit to arbitration pursuant to the NASD Code of Arbitration Procedure (the "Code") and, having answered the claim, appeared and presented evidence at the hearing, is bound by the determination of the Panel on all issues submitted.

By way of letter dated February 25, 2005, Claimants withdrew their claims relating to the alleged inappropriate sale of Class B shares of mutual funds. Claimants proceeded with their remaining claims against Respondent.

At the start of the hearing on the merits, the Panel heard oral argument on Respondent's Motion to Dismiss. The Panel denied said 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.

AWARD

After considering the pleadings, the testimony and evidence presented at the hearing, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondent is liable to and shall pay to Claimant compensatory damages in the amount of \$150,000.00;
2. The parties shall bear their respective costs, including attorneys' fees, except as Fees are specifically addressed below; and
3. Any and all relief not specifically addressed herein, including punitive damages, is denied in its entirety.

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 = \$ 300.00

Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firms that employed the associated person(s) at the time of the events giving rise to the dispute. Accordingly, Respondent is a party.

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

Forum Fees and Assessments

The Panel has assessed forum fees for each session conducted. A 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:

One (1) Pre-hearing session with a single arbitrator @ \$450.00	= waived by NASD
Pre-hearing conference: January 24, 2005 1 session	

One (1) Pre-hearing session with a single arbitrator @ \$450.00	= \$ 450.00
Pre-hearing conference: February 10, 2005 1 session	

One (1) Pre-hearing session with Panel @ \$1,125.00	= \$1,125.00
Pre-hearing conference: September 13, 2004 1 session	

Six (6) Hearing sessions @ \$1,125.00	= \$6,750.00
Hearing Dates: April 19, 2005 2 sessions	
April 20, 2005 2 sessions	
April 21, 2005 2 sessions	

Total Forum Fees	= \$8,325.00
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1. The Panel has assessed \$4,162.50 of the forum fees jointly and severally to Claimants.
2. The Panel has assessed \$4,162.50 of the forum fees to Respondent.

FEE SUMMARY

1. Claimants are jointly and severally assessed and shall pay the following fees:

Initial Filing Fee	= \$ 300.00
Forum Fees	= \$4,162.50
Total Fees	= \$4,462.50
Less payments	= \$1,425.00
Balance Due NASD Dispute Resolution	= \$3,037.50

2. Respondent is assessed and shall pay the following fees:

Member Fees	= \$5,200.00
Forum Fees	= \$4,162.50
Total Fees	= \$9,362.50
Less payments	= \$5,200.00
Balance Due NASD Dispute Resolution	= \$4,162.50

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

ARBITRATION PANEL

Amanda M. Cole, CPA, CFP	-	Public Arbitrator, Presiding Chairperson
Glenn A. Clinefelter	-	Public Arbitrator, Panelist
John D. Robb	-	Non-Public Arbitrator, Panelist

Concurring Arbitrators' Signatures

Amanda M. Cole, CPA, CFP

Amanda M. Cole, CPA, CFP
Public Arbitrator, Presiding Chairperson

4-28-2005

Signature Date

Glenn A. Clinefelter
Public Arbitrator, Panelist

Signature Date

John B. Robb
Non-Public Arbitrator, Panelist

Signature Date

April 28, 2005
Date of Service (For NASD Dispute Resolution office use only)

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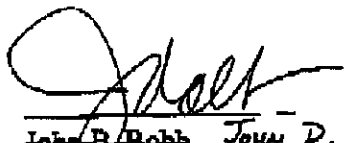
Concurring Arbitrators' Signatures

Amanda M. Cole, CPA, CFP
Public Arbitrator, Presiding Chairperson

Signature Date

Glen A. Clinesfelter
Public Arbitrator, Panelist

Signature Date



John B. Robb, Tow D. R. 88
Non-Public Arbitrator, Panelist

4-28-05

Signature Date

April 28 2005

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