

AWARD
NASD Dispute Resolution

In the Matter of the Arbitration Between

Names of Claimants

Edward and Shirley Benzon

and

04-01628
Nashville, Tennessee

Name of Respondent

Morgan Stanley DW, Inc.

NATURE OF THE DISPUTE

Customers vs. Member Firm

REPRESENTATION OF PARTIES

Edward and Shirley Benzon ("Claimants") were represented by H. Naill Falls, Jr., Esq., of Falls & Veach, Nashville, Tennessee.

Morgan Stanley DW, Inc. ("Respondent") was represented by James F. Sanders, Esq., of Neal & Harwell, PLC, Nashville, Tennessee.

CASE INFORMATION

The Statement of Claim was filed on or about March 9, 2004. The Submission Agreement of Claimants, Edward and Shirley Benzon, was signed on or about March 5, 2004.

A Statement of Answer was filed by Respondent, Morgan Stanley DW, Inc., on or about May 19, 2004. Respondent, Morgan Stanley DW, Inc., did not file a Submission Agreement.

CASE SUMMARY

Claimants asserted the following causes of action: common law fraud; unsuitability; breach of fiduciary duty; misrepresentation; omission of material facts; and negligence. The causes of action relate to the recommendations and purchases of various securities investments. Claimants asserted that due to the Respondent's unsuitable recommendations that they invest in equities and the unnecessary loads and fees that they were charged, the Claimants sustained losses that they could not afford.

Unless specifically admitted in its Answer, Respondent, Morgan Stanley DW, Inc., denied the allegations made in the Statement of Claim and asserted the affirmative defenses including the following: The Statement of Claim failed to state a claim upon which relief can be granted against Respondent; Claimants approved, authorized, ratified and acquiesced in the acts of which they now complain and accordingly, are precluded from asserting that Respondent's conduct is a basis for recovery; Claimants' claims are barred by the equitable doctrines of laches, estoppel and waiver; Claimants' claims are barred by the applicable statutes of limitations and Claimants failed to mitigate the damages they claim to have incurred.

RELIEF REQUESTED

Claimants requested an award of unspecified compensatory damages, plus punitive damages, interest, attorneys' fees and provide such further relief as the arbitration panel deemed to be just and proper.

Respondent requested that the claims asserted against it be denied in their entirety and that it be awarded its costs and attorneys' fees and any further relief as the panel deemed proper.

OTHER ISSUES CONSIDERED & DECIDED

On or about August 21, 2004, the Claimants withdrew their claim that Respondent improperly recommended and/or sold them Class B mutual fund shares.

Respondent, Morgan Stanley DW, Inc., did not file with the NASD Dispute Resolution a properly executed submission to arbitration but is required to submit to arbitration pursuant to Rule 10301 of the NASD Code of Arbitration Procedure (the "Code") and having answered the claim, appeared and testified at the hearing is bound by the determination of the arbitration panel on all issues submitted.

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, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. Respondent, Morgan Stanley DW, Inc., is liable for and shall pay to Claimants, Edward and Shirley Benzon, the sum of \$84,886.29 in compensatory damages;

2. Respondent, Morgan Stanley DW, Inc., shall reimburse to Claimants, Edward and Shirley Benzon, their claim-filing fee in the amount of \$250.00;
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; and
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.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Dispute Resolution will retain the non-refundable filing fee 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 that employed the associated persons at the time of the events giving rise to the dispute. In this matter, the member firm is Morgan Stanley DW, Inc.

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

Forum Fees and Assessments

The Arbitration Panel assesses forum fees for each hearing session conducted. A hearing 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:

1	Pre-hearing session with Panel	x	1,000.00	\$	1,000.00
	August 20, 2004	1 session			
1	Pre-hearing session with one Arbitrator	x	450.00	\$	450.00

	November 10, 2004	1 session		
3	Hearing sessions with Panel	x	1,000.00	\$ 3,000.00
	January 10, 2004	3 sessions		
	Total Forum Fees		\$	<u>4,450.00</u>

The Arbitration Panel has assessed \$4,450.00 of the forum fees to Morgan Stanley DW, Inc.

Fee Summary

Claimants, Edward and Shirley Benzon, are jointly and severally liable for:

<u>Initial Filing Fee</u>	= \$	<u>250.00</u>
Total Fees	= \$	250.00
<u>Less payments</u>	= \$	<u>-1,250.00</u>
Refund due to Claimants	= \$	1,000.00

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

Member Fees	= \$	4,450.00
<u>Forum Fees</u>	= \$	<u>4,450.00</u>
Total Fees	= \$	8,900.00
<u>Less payments</u>	= \$	<u>-4,450.00</u>
Balance Due NASD Dispute Resolution	= \$	4,450.00

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

ARBITRATION PANEL

Fred M. Acuff, Jr., Esq. - Public Arbitrator, Presiding Chair
Coleman Robert Perry, Jr., CFP - Public Arbitrator
J. Matt Steinhauer, III - Non-Public Arbitrator

Concurring Arbitrators:

/s/ Fred M. Acuff, Jr., Esq.
Fred M. Acuff, Jr., Esq.
Public Arbitrator, Presiding Chair

01/20/05
Signature Date

/s/ Coleman Robert Perry, Jr, CFP
Coleman Robert Perry, Jr., CFP
Public Arbitrator

01/20/05
Signature Date

/s/ J. Matt Steinauer, III
J. Matt Steinhauer, III
Non-Public Arbitrator

01/21/05
Signature Date

01/21/05
Date of service

NASD Dispute Resolution, Inc.

Arbitration No. 04-01628

Award Page 5 of 5

ABRETRATION PANEL

Fred M. Acuff Jr., Esq. - Public Arbitrator, Presiding Chair

Coleman Robert Perry, Jr., CFP - Public Arbitrator

J. Man Steinhauser, III - Non-Public Arbitrator

Concurring Arbitrators:

John Quidley

Fred M. Acuff, Jr., Esq.
Public Arbitrator, Presiding Chair

1-20-65

Signature Date

Coleman Robert Perry, Jr., CFP
Public Arbitrator

Signature Date

J. Matt Steinhauer, III
Non-Public Arbitrator

Signature Date

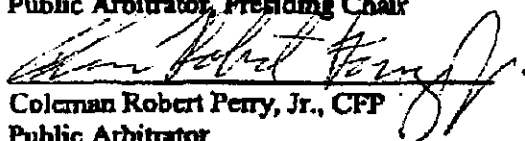
Date of service

ARBITRATION PANEL

Fred M. Acuff, Jr., Esq. - Public Arbitrator, Presiding Chair
Coleman Robert Perry, Jr., CFP - Public Arbitrator
J. Matt Steinbauer, III - Non-Public Arbitrator

Concurring Arbitrators:

Fred M. Acuff, Jr., Esq.
Public Arbitrator, Presiding Chair



Coleman Robert Perry, Jr., CFP
Public Arbitrator

Signature Date

1-20-05

Signature Date

J. Matt Steinbauer, III
Non-Public Arbitrator

Signature Date

1-10-05

Date of service

NASD Dispute Resolution, Inc.
Arbitration No. 04-01628
Award Page 5 of 5

ARBITRATION PANEL

Fred M. Acuff, Jr., Esq. - Public Arbitrator, Presiding Chair
Coleman Robert Perry, Jr., CFP - Public Arbitrator
J. Matt Steinhauer, III - Non-Public Arbitrator

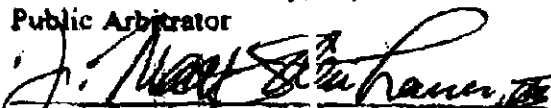
Concurring Arbitrators:

Fred M. Acuff, Jr., Esq.
Public Arbitrator, Presiding Chair

Signature Date

Coleman Robert Perry, Jr., CFP
Public Arbitrator

Signature Date


J. Matt Steinhauer, III
Non-Public Arbitrator

January 21, 2005
Signature Date

Date of service