
Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Names of the Claimants
Howard Wofsy and Ruth Wofsy,
Individually and as Trustees

Case Number: 04-01691

Name of the Respondent
Morgan Stanley DW, Inc.

Hearing Site: Boca Raton, Florida

Nature of the Dispute: Customer vs. Member.

REPRESENTATION OF PARTIES

For Claimants Howard Wofsy and Ruth Wofsy, Individually and as Trustees, hereinafter collectively referred to as "Claimants": Randall W. Henley, Esq., West Palm Beach, Florida.

For Respondent Morgan Stanley DW, Inc., hereinafter referred to as "Respondent": Jason M. Fedo, Esq., Greenberg Traurig, P.A., West Palm Beach, Florida.

CASE INFORMATION

Statement of Claim filed on or about: March 9, 2004.

Claimants signed but did not date the Uniform Submission Agreement.

Statement of Answer and Defenses filed by Respondent on or about: June 28, 2004.

Respondent signed the Uniform Submission Agreement: May 10, 2004.

CASE SUMMARY

Claimants asserted the following causes of action: 1) breach of fiduciary duty; and 2) violation of NASD suitability rule. The causes of action relate to Claimants' investments in equity portfolios including TCW Investments Management Co., and Rorer Asset Management.

Unless specifically admitted in its Answer, Respondent denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED forwarded

Claimants requested: 1) compensatory damages in the amount of \$600,000.00; 2) interest; and 3) any other relief that the undersigned arbitrators (the "Panel") deemed just and proper.

Respondent requested that the Panel dismiss Claimants' claims in their entirety.

OTHER ISSUES CONSIDERED AND DECIDED

The parties agreed that the Award in this matter may be executed in counterpart copies.

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. Claimants' claims against Respondent are hereby dismissed with prejudice.
2. Claimants are liable and shall pay to Respondent costs in an amount to be determined by a court of competent jurisdiction.
3. Any and all claims for relief not specifically addressed herein are denied with prejudice.

FEES

Facsimile

Pursuant to the NASD Code of Arbitration Procedure (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	= \$ 375.00
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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. Accordingly, Respondent is a party and a member firm.

Member surcharge	= \$ 2,250.00
Pre-hearing process fee	= \$ 750.00
<u>Hearing process fee</u>	= \$ 4,000.00
Total Member Fees	= \$ 7,000.00

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

There were no adjournment fees assessed during these proceedings.

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 the Panel @ \$1,200.00/session	= \$ 1,200.00
Pre-hearing conference: August 31, 2004 1 session	
Three (3) Hearing sessions with the Panel @ \$1,200.00/session	= \$ 3,600.00
Hearing Dates: August 23, 2005 2 sessions	
August 24, 2005 1 session	
<hr/> Total Forum Fees	<hr/> = \$ 4,800.00

The Panel has assessed the total forum fees in the amount of \$4,800.00 to Claimants, jointly and severally.

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

Claimants are jointly and severally liable for:

Forum Fees	= \$ 4,800.00
<u>Initial Filing Fee</u>	<u>= \$ 375.00</u>
Total Fees	= \$ 5,175.00
<u>Less payments</u>	<u>= \$ 1,575.00</u>
Balance Due NASD Dispute Resolution	= \$ 3,600.00

Respondent is liable for:

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

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

ARBITRATION PANEL

<i>Barth Satuloff, CPA</i>	-	<i>Public Arbitrator, Presiding Chairperson</i>
<i>Lee Milich, Esq.</i>	-	<i>Public Arbitrator</i>
<i>David W. Newman</i>	-	<i>Non-Public Arbitrator</i>

Concurring Arbitrators' Signatures

_____/s/_____
Barth Satuloff, CPA
Public Arbitrator, Presiding Chairperson

8/30/05
Signature Date

_____/s/_____
Lee Milich, Esq.
Public Arbitrator

8/31/05
Signature Date

_____/s/_____
David W. Newman
Non-Public Arbitrator

9/1/05
Signature Date

9/2/05
Date of Service (For NASD Dispute Resolution office use only)

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ARBITRATION PANEL

Barth Satuloff, CPA

Lee Milich, Esq.

David W. Newman

- *Public Arbitrator, Presiding Chairperson*
- *Public Arbitrator*
- *Non-Public Arbitrator*

Concurring Arbitrators' Signatures

Barth Satuloff

Barth Satuloff, CPA

Public Arbitrator, Presiding Chairperson

Aug. 30, 2005

Signature Date

Lee Milich, Esq.

Public Arbitrator

Signature Date

David W. Newman

Non-Public Arbitrator

Signature Date

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<i>Lee Milich, Esq.</i>	-	<i>Public Arbitrator</i>
<i>David W. Newman</i>	-	<i>Non-Public Arbitrator</i>

Concurring Arbitrators' Signatures

Barth Satuloff, CPA
Public Arbitrator, Presiding Chairperson

Signature Date

Lee Milich, Esq.
Public Arbitrator

8/31/05
Signature Date

David W. Newman
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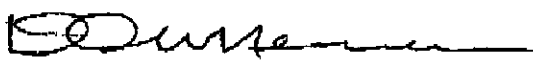
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Barth Satuloff, CPA
Public Arbitrator, Presiding Chairperson

Signature Date

Lee Milich, Esq.
Public Arbitrator

Signature Date



David W. Newman
Non-Public Arbitrator

9/1/05

Signature Date

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