
Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimant
Barbara H. Booker

Case Number: 04-01943

Names of the Respondents
Morgan Stanley DW, Inc.
Sarie Nerine Joubert-Durr

Hearing Site: New Orleans, LA

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

REPRESENTATION OF PARTIES

For Barbara H. Booker, hereinafter referred to as "Claimant": W. Michael Cady, Esq., Cady & Cady, Round Rock, TX.

For Morgan Stanley DW, Inc. ("MSDW") and Sarie Nerine Joubert-Durr ("Durr"), hereinafter collectively referred to as "Respondents": Robert W. Kyle, Esq., Lemle & Kelleher, L.L.P., Shreveport, LA.

CASE INFORMATION

Statement of Claim filed on or about: March 22, 2004.

Claimant signed the Uniform Submission Agreement: March 16, 2004.

Statement of Answer filed by Respondents on or about: May 28, 2004.

Respondent MSDW signed the Uniform Submission Agreement: April 7, 2004.

Respondent Durr signed the Uniform Submission Agreement: May 25, 2004.

Claimant's Motion for Partial Summary Judgment of Liability filed on or about: January 10, 2005.

CASE SUMMARY

Claimant asserted the following causes of action: fraudulent inducement; unsuitability; failure to diversify; misrepresentations and omissions; violations of NASD Conduct Rule 3010 and NYSE Rules 405 and 342.16; breach of fiduciary duty; failure to disclose; violations of federal laws including Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5 thereunder; violations of the NASD Rules of Fair Practice, §2310; violations of the securities laws of the state of New York and Louisiana securities law, La.R.S. 51:701, et seq.; and, the general obligation to observe high standards of commercial honor and just and equitable principles of trade mandated by NASD Rule 2110 and other laws. The causes of action relate to the purchase of shares of Morgan Stanley Dean Witter Prime Income Trust and Morgan Stanley Dean Witter Northbrook Variable Annuity 3 in Claimant's accounts.

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

RELIEF REQUESTED

Claimant requested rescission, return of deposits, remuneration for early withdrawal penalties, remuneration for certain losses, compensatory damages of \$90,325.30, disgorgement of commissions, charges, and profits, costs, pre-judgment interest, all damages recoverable under federal, New York, or Louisiana law, attorneys' fees, and punitive damages of \$100,000.00.

Respondents requested dismissal of the Statement of Claim, expungement of this matter from the NASD Central Registration Depository Records of Respondent Durr, that all costs and expenses be borne by Claimant, and for such other and further relief as is equitable under the circumstances.

OTHER ISSUES CONSIDERED AND DECIDED

During the evidentiary hearing, following argument of counsel, the undersigned arbitrators (the "Panel") denied Claimant's Motion for Partial Summary Judgment of Liability.

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. The Panel finds that the sale by the Respondents of the Northbrook variable annuities was unsuitable. Based on this finding, the Panel awards fifty-seven thousand dollars (\$57,000.00) to the Claimant to be paid by the Respondents as follows: Respondent MSDW seventy-five percent (75%) and Respondent Durr twenty five percent (25%).
2. The Panel finds that Respondent MSDW failed to supervise the sale of the Northbrook variable annuities. Based on this finding, the Panel awards an additional fifty thousand dollars (\$50,000.00) to the Claimant to be paid by Respondent MSDW.
3. The Panel awards interest at the legal rate to Claimant to be paid by Respondent MSDW on the above two awards which interest will accrue from the date of filing of the Statement of Claim by the Claimant with NASD Dispute Resolution until the above two awards are paid.
4. Respondent MSDW is liable and shall pay to Claimant the sum of \$300.00 representing reimbursement of the claim filing fee previously paid by Claimant to NASD Dispute Resolution.
5. Any and all claims for relief not specifically addressed herein, including Claimant's request for punitive damages, are denied.

FEES

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 = \$ 300.00

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 MSDW is a member firm and a party.

Member surcharge = \$1,700.00

Pre-hearing process fee = \$ 750.00

Hearing process fee = \$2,750.00

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

No adjournment fees were 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:

No three-day cancellation fees were 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.

No injunctive relief fees were 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 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/session = \$ 450.00

Pre-hearing conference: December 9, 2004 1 session

Two (2) Pre-hearing sessions with the Panel @ \$1,125.00/session = \$2,250.00

Pre-hearing conferences: August 9, 2004 1 session

August 30, 2004 1 session

Eight (8) Hearing sessions @ \$1,125.00/session = \$9,000.00

Hearing Dates: January 17, 2005 2 sessions

January 18, 2005 2 sessions

January 19, 2005 2 sessions

April 1, 2005 2 sessions

Total Forum Fees	= \$11,700.00
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The Panel has assessed the total forum fees of \$11,700.00 to Respondent MSDW.

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.

No administrative costs were incurred during this proceeding.

Fee Summary

Claimant is solely liable for:

Initial Filing Fee	= \$	300.00
Total Fees	= \$	300.00
Less payments	= \$	300.00
Balance Due NASD Dispute Resolution	= \$	0.00

Respondent MSDW is solely liable for:

Member Fees	= \$ 5,200.00
<u>Forum Fees</u>	<u>= \$11,700.00</u>
Total Fees	= \$16,900.00
<u>Less payments</u>	<u>= \$ 6,900.00</u>
Balance Due NASD Dispute Resolution	= \$10,000.00

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

ARBITRATION PANEL

Michael F. Brown, Esq.	-	Non-Public Arbitrator, Presiding Chairperson
Philip Richard Bulliard, JD	-	Public Arbitrator
David Walton Earle	-	Public Arbitrator

Concurring Arbitrators' Signatures

/s/
Michael F. Brown, Esq.
Non-Public Arbitrator, Presiding Chairperson

Signature **Date**

/s/
Philip Richard Bulliard, JD
Public Arbitrator

Signature Date

/s/
David Walton Earle
Public Arbitrator

Signature Date

April 5, 2005
Date of Service (For NASD Dispute Resolution use only)

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Less payments	= \$ 300.00
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Respondent MSDW is solely liable for:

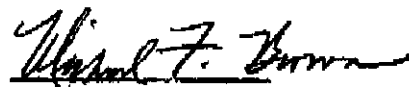
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Concurring Arbitrators' Signatures


Michael F. Brown, Esq.
Non-Public Arbitrator, Presiding Chairperson


Signature Date

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Philip Richard Bulliard, JD
Public Arbitrator

4-5-2005
Signature Date

David Walton Earle
Public Arbitrator

Signature Date

Date of Service (For NASD Dispute Resolution use only)

Philip Richard Bulliard, JD
Public Arbitrator



David Walton Earle
Public Arbitrator

Signature Date

4-5-5
Signature Date

Date of Service (For NASD Dispute Resolution use only)