
Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Names of the Claimants

Francis Heidrich, Sr.
Rachel I. Heidrich
Heidrich Life Insurance Trust
Francis Heidrich, Sr., Trustee
Herman J. Heidrich & Sons

Case Number: 04-02861

Names of the Respondents

Morgan Stanley DW, Inc.
Janney Montgomery Scott, LLC
Cantella & Co., Inc.

Hearing Site: Orlando, Florida

Nature of the Dispute: Customer vs. Member.

REPRESENTATION OF PARTIES

For Claimants Francis Heidrich, Sr., Rachel I. Heidrich, Heidrich Life Insurance Trust, Francis Heidrich, Sr., Trustee and Herman J. Heidrich & Sons, hereinafter collectively referred to as "Claimants": Scott L. Silver, Esq., Blum & Silver, L.L.P., Coral Springs, Florida.

For Respondent Morgan Stanley DW, Inc. ("MSDW"): Tucker Byrd, Esq., Greenberg Traurig, Orlando, Florida.

For Respondent Janney Montgomery Scott, LLC ("JMS"): Paula D. Shaffner, Esq., Saul Ewing, Philadelphia, Pennsylvania.

For Respondent Cantella & Co., Inc. ("Cantella"): Philip C. McMorrow, Cantella & Co., Inc., Boston, Massachusetts.

CASE INFORMATION

Statement of Claim filed on or about: April 19, 2004.

Claimants each signed the Uniform Submission Agreement: April 7, 2004.

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

Respondent MSDW signed the Uniform Submission Agreement: May 24, 2004.

Statement of Answer filed by Respondent JMS on or about: June 25, 2004.

Respondent JMS signed the Uniform Submission Agreement: May 7, 2004.

Respondent Cantella did not file a Statement of Answer or an executed Uniform Submission Agreement.

CASE SUMMARY

Claimants alleged the following causes of action in the Statement of Claim: 1) violations of New York Stock Exchange Rule 405; 2) violations of NASD Rule 2310; 3) breach of contract; 4) breach of fiduciary duty; 5) common law fraud; 6) negligence; 7) negligent hiring, retention and supervision of employees; 8) unsuitability; and 9) unauthorized trading. The causes of action relate to the use of margin, purchases of unspecified mutual Janus, Oppenheimer and AIM mutual funds, as well as purchases of the following stocks in Claimants' accounts: Carematrix Corp.; Endologix Inc.; Vialta Inc.; Vitesse Semiconductor; Tyco International; Westpoint Stevens, Inc.; Western Digital Corp.; Xilinx Inc.; Ames Department Stores; Juniper Networks; JDS Uniphase; Knight Trading Group; Nortel Networks; Qualcomm, Inc.; RSA Security Inc.; Sycamore Networks; Sanmina; Solectron; Checkpoint Software; Compuware Corp.; EDS; EMC; Gemstar; ICO Inc.; Ascential Software; Atmel Corp.; Applied Magnetics; Ivillage Inc.; and Iceweb Inc.

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

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

RELIEF REQUESTED

Claimants requested: 1) compensatory damages in an amount between \$1,000,000.00 and \$3,000,000.00; 2) interest at the legal rate from the date of purchase or reasonable market return; 3) rescission; 4) punitive damages; 5) costs of this proceeding; and 6) such other relief as is just and proper.

Respondent MSDW requested that Claimants' claim be denied in its entirety.

Respondent JMS requested that the undersigned arbitrators (the "Panel"): 1) dismiss Claimants' claim in its entirety; 2) assess the costs of this proceeding against Claimants; and 3) assess Respondent JMS' attorneys' fees against Claimants.

OTHER ISSUES CONSIDERED AND DECIDED

On or about May 13, 2004, Claimants dismissed their claims against Respondent Cantella without prejudice.

The Panel remarks that the attorneys and parties to the hearing should be commended for the expert and professional manner in which the Panel was presented with the facts and the spectacular quality of their opening and closing arguments.

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:

Claimants' claims against Respondents MSDW and JMS are denied in their entirety.

Claimants' request for punitive damages is denied.

Claimants, Respondent MSDW and Respondent JMS shall pay their own attorneys' fees.

Any and all claims for relief not specifically addressed herein are denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD will retain or collect the non-refundable filing fees for each claim:

Initial claim filing fee = \$ 500.00

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 person at the time of the events giving rise to the dispute. Accordingly, Respondents MSDW, JMS and Cantella are member firms and parties.

Member Fees assessed to Respondents MSDW and JMS:

Member surcharge = \$2,800.00

Pre-hearing process fee = \$ 750.00

Hearing process fee = \$5,000.00

Member Fees assessed to Respondent Cantella:

Member surcharge = \$2,800.00

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

May 17-20, 2005, adjourned by joint agreement of the parties to attend mediation. NASD Dispute Resolution waived assessment of the adjournment fee in the amount of \$1,200.00 pursuant to Rule 10403 of the Code.

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 a single arbitrator @ \$450.00 per session	= \$	450.00
Pre-hearing conference: February 28, 2005 1 session		

One (1) Pre-hearing session with the Panel @ \$1,200.00 per session	= \$	1,200.00
Pre-hearing conference: September 15, 2004 1 session		

Seven (7) Hearing Sessions @ \$1,200.00 per session	= \$	8,400.00
Hearing sessions: April 4, 2006 2 sessions		
April 5, 2006 3 sessions		
April 6, 2006 2 sessions		

Total Forum Fees	= \$	10,050.00
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The Panel has assessed forum fees in the amount of \$3,350.00 to Claimants, jointly and severally.

The Panel has assessed forum fees in the amount of \$3,350.00 to Respondent MSDW.

The Panel has assessed forum fees in the amount of \$3,350.00 to Respondent JMS.

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 are 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:

Initial Filing Fee	= \$ 500.00
Forum Fees	= \$ 3,350.00
Total Fees	= \$ 3,850.00
Less payments	= \$ 1,700.00
Balance Due NASD Dispute Resolution	= \$ 2,150.00

Respondent MSDW is solely liable for:

Member Fees	= \$ 8,550.00
Forum Fees	= \$ 3,350.00
Total Fees	= \$ 11,900.00
Less payments	= \$ 9,050.00
Balance Due NASD Dispute Resolution	= \$ 2,850.00

Respondent JMS is solely liable for:

Member Fees	= \$ 8,550.00
Forum Fees	= \$ 3,350.00
Total Fees	= \$ 11,900.00
Less payments	= \$ 9,050.00
Balance Due NASD Dispute Resolution	= \$ 2,850.00

Respondent Cantella is solely liable for:

Member Fees	= \$ 2,800.00
Total Fees	= \$ 2,800.00
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 2,800.00

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

ARBITRATION PANEL

Arthur L. Sirkin, Esq.	-	Public Arbitrator, Presiding Chairperson
Charles Tindell, Esq.	-	Public Arbitrator
Angelo J. Infantino	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

_____/s/
Arthur L. Sirkin, Esq.
Public Arbitrator, Presiding Chairperson

April 11, 2006
Signature Date

NASD Dispute Resolution

Arbitration No. 04-02861

Award Page 6

/s/

Charles Tindell, Esq.

Public Arbitrator

April 11, 2006

Signature Date

/s/

Angelo J. Infantino

Non-Public Arbitrator

April 11, 2006

Signature Date

April 12, 2006

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

NASD Dispute Resolution
Arbitration No. 04-02861
Award Page 5

Fee Summary

Claimants are jointly and severally liable for:

Initial Filing Fee	= \$ 500.00
Forum Fees	= \$ 3,350.00
Total Fees	= \$ 3,850.00
Less payments	= \$ 1,700.00
Balance Due NASD Dispute Resolution	= \$ 2,150.00

Respondent MSDW is solely liable for:

Member Fees	= \$ 8,550.00
Forum Fees	= \$ 3,350.00
Total Fees	= \$ 11,900.00
Less payments	= \$ 9,050.00
Balance Due NASD Dispute Resolution	= \$ 2,850.00

Respondent JMS is solely liable for:

Member Fees	= \$ 8,550.00
Forum Fees	= \$ 3,350.00
Total Fees	= \$ 11,900.00
Less payments	= \$ 9,050.00
Balance Due NASD Dispute Resolution	= \$ 2,850.00

Respondent Cantella is solely liable for:

Member Fees	= \$ 2,800.00
Total Fees	= \$ 2,800.00
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 2,800.00

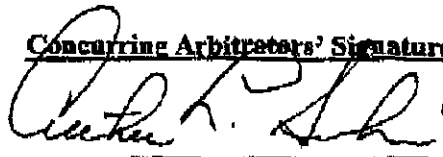
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ARBITRATION PANEL

Arthur L. Sirkin, Esq.
Charles Tindell, Esq.
Angelo J. Infantino

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

Concurring Arbitrators' Signatures



Arthur L. Sirkin, Esq.
Public Arbitrator, Presiding Chairperson


Signature Date

Apr. 11. 2006 4:15PM

No. 1690 P. 7/7

NASD Dispute Resolution

Arbitration No. 04-02861

Award Page 6

Charles Indell, Esq.

Public Arbitrator

4-11-06

Signature Date

Angelo J. Infantino

Non-Public Arbitrator

Signature Date

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

NASD Dispute Resolution
Arbitration No. 04-02861
Award Page 6

Charles Tindell, Esq.
Public Arbitrator

Signature Date



Angelo J. Infantino
Non-Public Arbitrator

4/11/06

Signature Date

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