
Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Names of the Claimants

Dr. Phillip Ellman
Marilyn Ellman

Case Number: 04-04206

Name of the Respondent

Morgan Stanley DW, Inc. d/b/a
Morgan Stanley

Hearing Site: Boca Raton, Florida

Nature of the Dispute: Customer vs. Member.

REPRESENTATION OF PARTIES

For Dr. Phillip Ellman and Marilyn Ellman, hereinafter collectively referred to as "Claimants":
Eric M. Norstedt, Esq., Law Offices of Eric Norstedt, P.A., Fort Lauderdale, Florida.

For Morgan Stanley DW, Inc. d/b/a Morgan Stanley, hereinafter referred to as "Respondent":
Todd A. Zuckerbrod, Esq., Greenberg Traurig, P.A., West Palm Beach, Florida.

CASE INFORMATION

Statement of Claim filed on or about: June 5, 2004.

Claimants signed the Uniform Submission Agreement: May 27, 2004.

Statement of Answer and Defenses and Motion for a More Definite Statement filed by
Respondent on or about: August 27, 2004.

Respondent did not file an executed Uniform Submission Agreement.

Response to Respondent's Motion for a More Definitive Statement filed by Claimants on or
about: September 27, 2004.

CASE SUMMARY

Claimants asserted the following causes of action: 1) vicarious and principal liability; 2) negligence; 3) gross negligence; 4) fraud; 5) negligent misrepresentation and omissions; 6) fraudulent negligent concealment and fraudulent negligent inducement; 7) negligent and reckless supervision; 8) breach of fiduciary duty; 9) breach of contract; and, 10) violations of statutory law and the rules and regulations of the NASD. The causes of action relate to the investments in unspecified technology stocks as well as bond funds and an annuity in Claimants' accounts.

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

RELIEF REQUESTED

Claimants requested: 1) compensatory and rescissionary damages of between \$100,000.00 and

\$500,000.00; 2) unspecified punitive damages; 3) interest; 4) costs; 5) attorneys' fees; and, 6) such other relief as the undersigned arbitrators (the "Panel") deem fair and reasonable.

Respondent requested that the Panel dismiss the Statement of Claim.

OTHER ISSUES CONSIDERED AND DECIDED

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

On or about October 6, 2004, the Panel denied Respondent's Motion for a More Definitive Statement.

During the evidentiary hearing, Respondent made an ore tenus Motion to Dismiss. The Panel denied the Motion.

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 are dismissed, with prejudice, in their entirety.

Any and all claims for relief not specifically addressed herein, including Claimants' request for punitive damages, are denied.

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
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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 that employed the associated person at the time of the events giving rise to the dispute. Accordingly, Respondent is a member firm and a party.

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

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 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: April 20, 2005 1 session	
One (1) Pre-hearing session with Panel @ \$1,125.00/session	= \$1,125.00
Pre-hearing conference: October 25, 2004 1 session	
Seven (7) Hearing sessions @ \$1,125.00/session	= \$7,875.00
Hearing Dates: July 20, 2005 2 sessions	
July 21, 2005 2 sessions	
July 22, 2005 3 sessions	
Total Forum Fees	= \$9,450.00

The Panel assessed forum fees of \$4,725.00 to Claimants, jointly and severally.

The Panel assessed forum fees of \$4,725.00 to Respondent.

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 assessed during these proceedings.

Fee Summary

Claimants are jointly and severally liable for:

Initial Filing Fee	= \$ 300.00
Forum Fees	= \$ 4,725.00
Total Fees	= \$ 5,025.00
Less payments	= \$ 1,425.00
Balance Due NASD Dispute Resolution	= \$ 3,600.00

Respondent is solely liable for:

Member Fees	= \$ 5,200.00
Forum Fees	= \$ 4,725.00
Total Fees	= \$ 9,925.00
Less payments	= \$ 7,950.00
Balance Due NASD Dispute Resolution	= \$ 1,975.00

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

ARBITRATION PANEL

Robert J. Saex	-	Public Arbitrator, Presiding Chairperson
Don R. Harris	-	Public Arbitrator
Bernard (Bob) L. Loring	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

/s/
Robert J. Saex
Public Arbitrator, Presiding Chairperson

Signature Date

/s/
Don R. Harris
Public Arbitrator

Signature Date

/s/
Bernard (Bob) L. Loring
Non-Public Arbitrator

Signature Date

July 29, 2005
Date of Service (For NASD Dispute Resolution office use only)

NASD Dispute Resolution

Arbitration No. 04-04206

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Robert J. Saax
Public Arbitrator, Presiding Chairperson

7/27/05
Signature Date

Don R. Harris
Public Arbitrator

Signature Date

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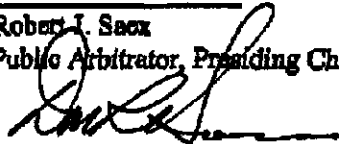
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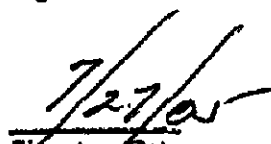
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Public Arbitrator, Presiding Chairperson



Signature Date



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