
Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Names of the Claimants

Case Number: 04-5011

William I. Gold, Individually and as Trustee,
TUA William I. Gold DTD 12/5/00
And Ruth H. Gold, Individually and as Trustee,
TUA Ruth H. Gold DTD 12/5/00

Names of the Respondents

Hearing Site: Boca Raton, Florida

Morgan Stanley
Allison Kumble

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

REPRESENTATION OF PARTIES

For William I. Gold, Individually and as Trustee, TUA William I. Gold DTD 12/5/00 ("W. Gold") and Ruth H. Gold, Individually and as Trustee, TUA Ruth H. Gold DTD 12/5/00 ("R. Gold") hereinafter collectively referred to as "Claimants": Layne Verebay, Esq., Layne Verebay, P.A. Fort Lauderdale, Florida.

For Morgan Stanley ("MSDW") and Allison Kumble ("Kumble"), hereinafter collectively referred to as "Respondents": Jon A. Jacobson, Esq., Greenberg Traurig P.A., West Palm Beach, Florida.

CASE INFORMATION

Statement of Claim filed on or about: July 13, 2004.

Claimants signed the Uniform Submission Agreement: July 14, 2004.

Statement of Answer filed by Respondents on or about: October 19, 2004.

Respondent MSDW signed the Uniform Submission Agreement: October 4, 2004.

Respondent Kumble did not file an executed Uniform Submission Agreement.

CASE SUMMARY

Claimants asserted the following causes of action: 1) violation of Section 517.301 and 517.211 of the Florida Statutes; 2) common law fraud; 3) negligence; 4) breach of fiduciary duty; 5) negligent supervision; 6) respondent superior; and 7) unsuitability. The causes of action relate to Claimants' investments in, including but not limited to, Morgan Stanley Growth Fund and Morgan Stanley American Opportunities Fund.

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

RELIEF REQUESTED

Claimants requested: 1) compensatory damages in the amount of \$222,410.90; 2) interest; 3) attorneys' fees; and, 4) costs.

Respondents did not delineate a relief request.

OTHER ISSUES CONSIDERED AND DECIDED

Respondent Kumble did not file with NASD Dispute Resolution a properly executed Uniform Submission Agreement but is required to submit to arbitration pursuant to the Code and, having answered the Claim, appeared and testified at the hearing, is bound by the determination of the Panel on all issues submitted.

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, evidence and testimony presented at the evidentiary hearing, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

Respondents, jointly and severally, are found liable on the claim for suitability and shall pay to Claimants, jointly and severally, compensatory damages in the amount of \$50,000.00.

All other claims for relief, including Claimants' requests for interest, costs, attorneys' fees and claims under Sections 517.301 and 517.211 of the Florida Statutes, 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
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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 MSDW is a party and a member firm.

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:

September 13 - 16, 2005 adjournment

= \$ 1,125.00

The Panel has assessed \$562.50 in adjournment fees to Claimants, jointly and severally.

The Panel has assessed \$562.50 in adjournment fees to Respondents, jointly and severally.

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 sessions with the Panel @ \$1,125.00/session = \$1,125.00

Pre-hearing conference: January 11, 2005 1 session

Two (2) Hearing Sessions with the Panel @ \$1,125.00/session = \$2,250.00

Hearing Date: March 1, 2006 2 sessions

Total Forum Fees = \$3,375.00

The Panel has assessed forum fees in the amount of \$1,687.50 to Claimants, jointly and severally.

The Panel has assessed forum fees in the amount of \$1,687.50 to Respondents, 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:

Initial Filing Fee	= \$ 300.00
Forum Fees	= \$ 1,687.50
Postponement Fees	= \$ 562.50
Total Fees	= \$ 2,550.00
Less Payments	= \$ 1,425.00
Balance Due NASD Dispute Resolution	= \$ 1,125.00

Respondent MSDW is solely liable for:

Member Fees	= \$ 5,200.00
Total Fees	= \$ 5,200.00
Less payments	= \$ 5,200.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondents are jointly and severally liable for:

Postponement Fees	= \$ 562.50
Forum Fees	= \$ 1,687.50
Total Fees	= \$ 2,250.00
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 2,250.00

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

ARBITRATION PANEL

Kimberly A. Gilmour, Esq.
Walter B. Bancroft
J. Guillermo Castro, MSM

Public Arbitrator, Presiding Chairperson
Public Arbitrator
Non-Public Arbitrator

Concurring Arbitrators' Signatures

_____/s/_____
Kimberly A. Gilmour, Esq..
Public Arbitrator, Presiding Chairperson

March 2, 2006
Signature Date

_____/s/_____
Walter B. Bancroft
Public Arbitrator

March 2, 2006
Signature Date

_____/s/_____
J. Guillermo Castro, MSM
Non-Public Arbitrator

March 2, 2006
Signature Date

March 3, 2006

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

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Non-Public Arbitrator

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Kimberly A. Gilmour, Esq.
Public Arbitrator, Presiding Chairperson

3/2/06
Signature Date

Walter B. Bancroft
Public Arbitrator

Signature Date

J. Guillermo Castro, MSM
Non-Public Arbitrator

Signature Date

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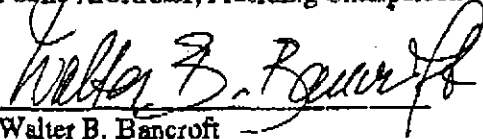
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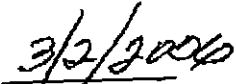
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Signature Date