

AWARD
NASD Dispute Resolution

In the Matter of the Arbitration Between

Name of Claimant

Novella B. Barrett

and

04-07716
Chicago, Illinois.

Name of Respondents

Morgan Stanley DW Inc.
Michael L. Barnett

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

REPRESENTATION OF PARTIES

Novella B. Barrett ("Claimant") was represented by Timothy A. Canning, Esq., Novato, California.

Morgan Stanley DW Inc. ("Respondent MSDW") and Michael L. Barnett ("Respondent Barnett") hereinafter referred to as ("Respondents") were represented by Bruce Lewitas, Esq., Lewitas and Associates, Chicago, Illinois.

CASE INFORMATION

The Statement of Claim was filed on or about November 5, 2004. Submission Agreement of Claimant Novella B. Barrett was signed on September 29, 2004.

Statement of Answer was filed by Respondents Morgan Stanley DW Inc. and Michael L. Barnett on or about December 31, 2004. Submission Agreement of Respondent Morgan Stanley DW Inc. was signed on January 10, 2005. Submission Agreement of Respondent Michael L. Barnett was signed on January 11, 2005.

CASE SUMMARY

Claimant asserted causes of action against Respondents for fraud, negligence, misrepresentation, breach of contract and breach of fiduciary duty. It was alleged among other things that:

... the investments selected by Respondents for Claimant were unsuitable because they did not meet her specific investment needs of "preservation of purchasing power" and income. Which is not to say that the possible effects of inflation over time could not have been

integrated into Claimant's portfolio, only that the manner in which Respondents invested her funds failed in that regard as well.

Respondents denied the allegations set forth in the Statement of Claim. Respondents specifically stated that

Respondents recommended a broadly diversified portfolio of cash, common stocks, preferred stocks, government bonds, mutual funds, annuities and unit investment trusts. A portion of the money was placed in international markets and the majority of the common stocks were "blue chips."

RELIEF REQUESTED

Claimant requested an award as follows:

1. Damages in the amount of \$600,000 subject to proof at hearing; plus interest on that amount;
2. Reimbursement for the reasonable costs associated in the prosecution of this claim;
3. Attorneys fees, pursuant only to 815 ILCS 5/13(a), which provides for an award of attorneys fees to a defrauded purchaser of securities;
4. Punitive and exemplary damages, in an amount the panel determines to be sufficient to punish Respondents and to deter similar misconduct in others. Claimants specifically allege that Respondents' actions were willful, intentional and done with the express knowledge that Claimant were likely to be injured. Mastrobuono v Shearson Lehman Hutton, Inc., 514 U.S. 52, 115 S. Ct. 1212 (1995).
5. Disciplinary referrals to the appropriate regulatory enforcement agencies as this panel deems appropriate.

Respondents requested that the claims asserted against them be dismissed in their entirety and grant Mr. Barnett an expungment of this matter from his CRD record.

OTHER ISSUES CONSIDERED & DECIDED

At the conclusion of Claimant's case, Respondents asserted a Motion for Directed Verdict. After considering the arguments of the parties and the evidence presented, the Arbitration Panel denied the Motion.

The parties have agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award may be entered. In either case, the parties have agreed to receive conformed copies of the award while the original(s) remain on file with the NASD Dispute Resolution (the "NASD").

AWARD

After considering the pleadings, the testimony, and the evidence presented at the hearing, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. In favor of Respondents and against complainant.
2. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Michael L. Barnett's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notices to Members 99-09 and 99-54, Respondent Michael L. Barnett must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive. Unless specifically waived in writing by the NASD, parties seeking judicial confirmation of an arbitration award containing expungement relief must name NASD as an additional party and serve NASD with all appropriate documents.
3. Pursuant to Rule 2130, the arbitration panel has made the following affirmative findings of fact:
 - The claim, allegation, or information is factually impossible or clearly erroneous;
4. That to the extent not specifically awarded or otherwise provided for above, all other claims and requests for relief by any party hereto are denied with prejudice.
5. Other than the Forum Fees noted below, the parties shall each bear all other costs and expenses incurred by them in connection with this proceeding, including but not limited to attorneys fees, not specifically awarded or otherwise provided for above.

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

= \$375.00

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. In this matter, the member firm(s) is Morgan Stanley DW Inc.

Member surcharge	\$	2,250.00
Pre-hearing process fee	\$	750.00
Hearing process fee	\$	4,000.00
Total Member Fees	\$	7,000.00

Adjournment Fees

Adjournments requested during these proceedings:

Hearing Date(s), October 18-21, 2005 adjournment requested by Respondents. Fee = \$1,200.00 waived by Arbitration Panel

Forum Fees and Assessments

The Arbitration Panel assesses forum fees for each hearing session conducted or each decision rendered on a discovery-related motion on the papers.. A hearing 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:

2	Pre-hearing session(s) with Panel	@	1,200.00	\$	2,400.00
	March 7, 2005	1	session		
	October 13, 2005	1	session		
5	Hearing sessions	@	1,200.00	\$	6,000.00
	November 16, 2006	1	session		
	January 31, 2006	2	sessions		
	February 1, 2006	2	sessions		
	Total Forum Fees			\$	8,400.00

The Arbitration Panel has assessed \$7,200.00 of the forum fees to Morgan Stanley DW Inc. The Arbitration Panel has waived \$1,200.00 of the forum fees resulting from the hearing session held on November 16, 2005 when Mark Hutchinson advised the parties that he had withdrawn from this matter.

02/02/2006 13:48 FAX

NASD

008/006

NASD Dispute Resolution
Arbitration No. 04-07716
Award Page 5 of 5

Fee Summary

Claimant, Novella B. Barrett, is liable for:

Initial Filing Fee	= \$	375.00
Total Fees	= \$	375.00
<u>Less payments</u>	= \$	-1,575.00
Balance refunded by NASD Dispute Resolution	= \$	-1,200.00

Respondent, Morgan Stanley DW Inc., is liable for:

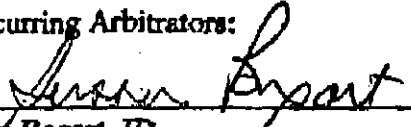
Member Fees	= \$	7,000.00
<u>Forum Fees</u>	= \$	7,200.00
Total Fees	= \$	14,200.00
<u>Less payments</u>	= \$	-7,000.00
Balance Due NASD Dispute Resolution	= \$	7,200.00

All balances are due to NASD Dispute Resolution

ARBITRATION PANEL

Susan Bogart, JD - Public Arbitrator, Presiding Chair
Carol McHugh Sanders, JD - Public Arbitrator
Doris H. Geck - Non-Public Arbitrator

Concurring Arbitrators:


Susan Bogart, JD
Public Arbitrator, Presiding Chair

2/2/06
Signature Date

Carol McHugh Sanders, JD
Public Arbitrator

Signature Date

Doris H. Geck
Non-Public Arbitrator

Signature Date

Date of Service (For NASD office use only)

NASD Dispute Resolution
Arbitration No. 04-07716
Award Page 3 of 3

Fee Summary

Claimant, Novella B. Barrett, is liable for:

Initial Filing Fee	= \$	375.00
Total Fees	= \$	375.00
Less payments	= \$	-1,575.00
Balance refunded by NASD Dispute Resolution	= \$	-1,200.00

Respondent, Morgan Stanley DW Inc., is liable for:

Member Fees	= \$	7,000.00
Forum Fees	= \$	7,200.00
Total Fees	= \$	14,200.00
Less payments	= \$	-7,000.00
Balance Due NASD Dispute Resolution	= \$	7,200.00

All balances are due to NASD Dispute Resolution

ARBITRATION PANEL

Susan Bogart, JD - Public Arbitrator, Presiding Chair
Carol McHugh Sanders, JD - Public Arbitrator
Doris H. Geck - Non-Public Arbitrator

Concurring Arbitrators:

Susan Bogart, JD
Public Arbitrator, Presiding Chair

Signature Date

Carol McHugh Sanders
Carol McHugh Sanders, JD
Public Arbitrator

2/2/06
Signature Date

Doris H. Geck
Non-Public Arbitrator

Signature Date

Date of Service (For NASD office use only)

NASD Dispute Resolution
Arbitration No. 04-07716
Award Page 5 of 5

Fee Summary

Claimant, Novella B. Barrett, is liable for:

Initial Filing Fee	= \$	375.00
Total Fees	= \$	375.00
Less payments	= \$	-1,575.00
Balance refunded by NASD Dispute Resolution	= \$	-1,200.00

Respondent, Morgan Stanley DW Inc., is liable for:

Member Fees	= \$	7,000.00
Forum Fees	= \$	7,200.00
Total Fees	= \$	14,200.00
Less payments	= \$	-7,000.00
Balance Due NASD Dispute Resolution	= \$	7,200.00

All balances are due to NASD Dispute Resolution

ARBITRATION PANEL

Susan Bogart, JD - Public Arbitrator, Presiding Chair
Carol McHugh Sanders, JD - Public Arbitrator
Doris H. Geck - Non-Public Arbitrator

Concurring Arbitrators:

Susan Bogart, JD
Public Arbitrator, Presiding Chair

Signature Date

Carol McHugh Sanders, JD
Public Arbitrator

Signature Date


Doris H. Geck
Non-Public Arbitrator

2/2/06
Signature Date

Date of Service (For NASD office use only)