

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Names of the Claimants

Mitchell Alexander

Janet Alexander

Case Number: 04-08034

Name of the Respondent

Morgan Stanley DW Inc.

Hearing Site: Tampa, Florida

Nature of the Dispute: Customer vs. Member.

REPRESENTATION OF PARTIES

For Mitchell Alexander and Janet Alexander, hereinafter collectively referred to as "Claimants": Patrick A. Davis, Esq., Clearwater, Florida.

For Morgan Stanley DW Inc. ("MSDW"), hereinafter referred to as "Respondent": Robert C. Stokes, Esq., Morgan Stanley DW Inc., Tampa, Florida.

CASE INFORMATION

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

Claimants signed the Uniform Submission Agreement on: November 2, 2004.

Statement of Answer filed by Respondent MSDW on or about: February 16, 2005.

Respondent MSDW signed the Uniform Submission Agreement on: February 16, 2005.

Motion to Dismiss, Motion for More Definite Statement, and Motion in Limine filed by Respondent MSDW on or about: March 2, 2006.

CASE SUMMARY

Claimants asserted the following causes of action against Respondent MSDW: 1) unsuitability; 2) overconcentration; 3) lack of asset allocation; 4) failure to implement a system of loss control; 5) negligent supervision and retention; 6) fraud; 7) misrepresentation; 8) omission; 9) violations of Florida Securities Investor Protection Act, Sections 517.301, 517.211, and 517.241(3), Fla. Stat.; 10) violations of federal securities laws, including 15 U.S.C. § 77(e)(a), 15 U.S.C. § 77(e)(c), 15 U.S.C. § 771(1), 15 U.S.C. § 771(2), 15 U.S.C. § 78j(b), 17 C.F.R. § 240.10b-5; 11) breach of fiduciary duty; 12) gross negligence; 13) unjust enrichment; and 14) racketeering activity in violation of Chapters 517, 812, and 817, Fla. Stat. The causes of action relate to unspecified stock and mutual fund purchases and the use of margin in Claimants' accounts.

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

RELIEF REQUESTED

Claimants requested: 1) unspecified actual damages; 2) punitive damages; 3) prejudgment

interest; 4) costs; 5) attorney's fees; 6) rescission; 7) treble damages; 8) disgorgement of commissions plus interest thereon; and 9) such other relief as the undersigned arbitrators (the "Panel") deemed necessary and proper.

Respondent MSDW requested: 1) dismissal of the Statement of Claim; 2) forum fees; 3) expungement of this matter from MSDW's NASD Central Registration Depository ("CRD") records; 4) attorney's fees and costs in a court of competent jurisdiction pursuant to Section 517, Fla. Stat.; and 5) such other relief as the Panel deemed just and proper.

OTHER ISSUES CONSIDERED AND DECIDED

On or about March 9, 2006, the Panel entered an order denying Respondent MSDW's Motion to Dismiss the Statement of Claim and Motion for More Definite Statement.

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, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondent MSDW is liable on the claim for negligence. Respondent MSDW shall pay to Claimants compensatory damages in the amount of \$25,000.00.
2. Any and all claims for relief not specifically addressed herein, including Claimants' request for relief under Ch. 517, Fla. Stat., Claimants' request for punitive damages, the respective parties' requests for attorney's fees and Respondent MSDW's request for expungement 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	=	\$ 250.00
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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, MSDW is a party and a member firm.

Member surcharge	=	\$1,500.00
Pre-hearing process fee	=	\$ 750.00
<u>Hearing process fee</u>	=	<u>\$2,200.00</u>
Total Member Fees	=	\$4,450.00

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.

There were no injunctive relief fees assessed during these proceedings.

Forum Fees and Assessments

The arbitration Panel has assessed forum fees for each session conducted or each decision rendered on a discovery-related motion on the papers. 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: December 13, 2005		
Two (2) Pre-hearing sessions with Panel @ \$1,000.00 per session	= \$	2,000.00
Pre-hearing conferences: June 1, 2005 1 session		
March 9, 2006 1 session		
Eight (8) Hearing sessions @ \$1,000.00 per session	= \$	8,000.00
Hearing Dates: March 14, 2006 2 sessions		
March 15, 2006 2 sessions		
March 16, 2006 2 sessions		
March 17, 2006 2 sessions		
Total Forum Fees	=	\$10,450.00

1. The Panel has assessed \$5,225.00 of the forum fees to Claimants, jointly and severally.
2. The Panel has assessed \$5,225.00 of the forum fees 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 are not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

No administrative costs were assessed during these proceedings.

Fee Summary

Claimants are jointly and severally liable for:

Initial Filing Fee	= \$ 250.00
<u>Forum Fees</u>	<u>= \$ 5,225.00</u>
Total Fees	= \$ 5,475.00
<u>Less payments</u>	<u>= \$ 1,250.00</u>
Balance Due NASD Dispute Resolution	= \$ 4,225.00

Respondent MSDW is solely liable for:

Member Fees	= \$ 4,450.00
<u>Forum Fees</u>	<u>= \$ 5,225.00</u>
Total Fees	= \$ 9,675.00
<u>Less payments</u>	<u>= \$ 4,450.00</u>
Balance Due NASD Dispute Resolution	= \$ 5,225.00

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

ARBITRATION PANEL

Michael D. Hamilton	-	Public Arbitrator, Presiding Chairperson
David A. Townsend, Esq.	-	Public Arbitrator
Terrence W. Grant	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

/s/
Michael D. Hamilton
Public Arbitrator, Presiding Chairperson

March 23, 2006
Signature Date

/s/
David A. Townsend, Esq.
Public Arbitrator

March 22, 2006
Signature Date

/s/
Terrence W. Grant
Non-Public Arbitrator

March 22, 2006
Signature Date

March 23, 2006
Date of Service (For NASD Dispute Resolution Office use only)

NASD Dispute Resolution
Arbitration No. 04-08034
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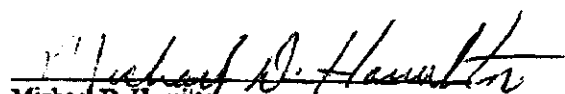
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Michael D. Hamilton
Public Arbitrator, Presiding Chairperson

3-23-06
Signature Date

David A. Townsend, Esq.
Public Arbitrator

Signature Date

Terrence W. Grant
Non-Public Arbitrator

Signature Date

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

Mar. 22. 2006 12:06PM

No. 1885 P. 5

NASD Dispute Resolution
Arbitration No. 04-08034
Award Page 4 of 4

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Concurring Arbitrators' Signatures

Michael D. Hamilton
Public Arbitrator, Presiding Chairperson

Signature Date



David A. Townsend, Esq.
Public Arbitrator

3/22/06

Signature Date

Terrence W. Grant
Non-Public Arbitrator

Signature Date

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

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Award Page 4 of 4

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Public Arbitrator, Presiding Chairperson

Signature Date

David A. Townsend, Esq.
Public Arbitrator

Signature Date



Terrence W. Grant
Non-Public Arbitrator



3/22/06
Signature Date

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