

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimants
Bruce & Deborah Nichols

Case Number: 04-08187

Name of the Respondent
Morgan Stanley DW Inc.

Hearing Site: Dallas, Texas

NATURE OF THE DISPUTE

Public Customers vs. Member Firm

REPRESENTATION OF PARTIES

Claimants Bruce & Deborah Nichols, hereinafter collectively referred to as "Claimants": Robert L. Wright, Esq., of the Robert L. Wright, P.C., located in Fort Worth, Texas.

Respondent Morgan Stanley DW Inc., hereinafter referred to as "Respondent": Michael J. Stanley, Esq., of Stanley, Phillips & Bell, LLP, located in Houston, Texas.

CASE INFORMATION

Statement of Claim filed: November 30, 2004.

Claimants signed the Uniform Submission Agreement: November 15, 2004.

Statement of Answer filed by Respondent on: February 10, 2005.

Respondent signed the Uniform Submission Agreement: February 8, 2005.

CASE SUMMARY

Claimants asserted the following causes of action: unsuitability; failure to supervise; unsuitable portfolio allocation; misrepresentation and omissions in connection with the sale of securities; inadequate risk disclosure; excessive activity; negligence; and, breach of fiduciary duty. These causes of action related to Respondent's recommended portfolio allocation and use of margin.

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

1. Claimants have failed to state a claim upon which relief can be granted;

2. Claimants assumed the risks with respect to the transactions in question;
3. These claims are barred by the theories of contributory and/or comparative negligence;
4. These claims are barred by the applicable statute of limitations;
5. These claims are barred by the doctrine of unclean hands; and,
6. These claims are barred by the doctrines of waiver and estoppel.

RELIEF REQUESTED

Claimants requested:

Compensatory Damages	To be determined by the Panel
Punitive Damages	To be determined by the Panel
Interest	Prejudgment interest in an amount to be determined by the Panel
Attorneys' Fees	To be determined by the Panel
Other Costs	Including expert fees, in an amount to be determined by the Panel

Respondent Morgan Stanley DW Inc. requested that the Statement of Claim be denied in its entirety; that all costs of arbitration, including attorneys' fees, if applicable, be assessed against Claimants; and for such other and further relief as is equitable.

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. The Statement of Claim is dismissed and denied in its entirety;
2. The parties shall bear their own costs of arbitration, including any attorneys' fees, except for those sums specifically enumerated in this decision; and,
3. Any and all relief not specifically addressed herein, including punitive damages, is 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 = \$ 250.00

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, Morgan Stanley DW Inc. is a party and the following member fees are assessed:

Member surcharge	= \$ 1,500.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$ 2,200.00

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

Adjournment by Respondent February 28, 2006 to March 3, 2206	= \$ 1,000.00
Adjournment by Claimant August 8, 2006 to August 11, 2006	= \$ 1,000.00

The Panel has waived the adjournment fees.

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:

Two (2) Pre-hearing sessions with Panel @ \$1,000	= \$ 2,000.00
Pre-hearing conferences:	
May 6, 2005 1 session	
February 28, 2005 1 session	
Eight (8) Hearing sessions @ \$1,000	= \$ 8,000.00
Hearing Dates:	
August 15, 2006 2 sessions	
August 16, 2006 2 sessions	
August 17, 2006 2 sessions	
August 18, 2006 2 sessions	
<hr/> Total Forum Fees	<hr/> = \$ 10,000.00

The Panel has assessed \$10,000.00 of the forum fees to the Respondent Morgan Stanley DW Inc.

FEE SUMMARY

Claimants Bruce & Deborah Nichols are jointly and severally liable for:

Initial Filing Fee	= \$ 250.00
<u>Less payments</u>	<u>= \$ 1,250.00</u>
Balance Refunded by NASD Dispute Resolution	= \$ 1,000.00

Respondent Morgan Stanley DW Inc. is solely liable for:

Member Fees	= \$ 4,450.00
<u>Forum Fees</u>	<u>= \$10,000.00</u>
Total Fees	= \$14,450.00
<u>Less payments</u>	<u>= \$ 4,450.00</u>
Balance Due NASD Dispute Resolution	= \$10,000.00

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

ARBITRATION PANEL

C. Sumpter Logan - Public Arbitrator, Presiding Chairperson
Dineo Coleman Gary - Public Arbitrator
Lewis W. Pollok, III - Non-Public Arbitrator

Concurring Arbitrators' Signatures

C. Sumpter Logan
Public Arbitrator, Presiding Chairperson

Signature Date

Dineo Coleman Gary
Public Arbitrator

Signature Date

Lewis W. Pollok, III
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Date of Service (For NASD Dispute Resolution office use only)

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 Arbitration No. 04-08187
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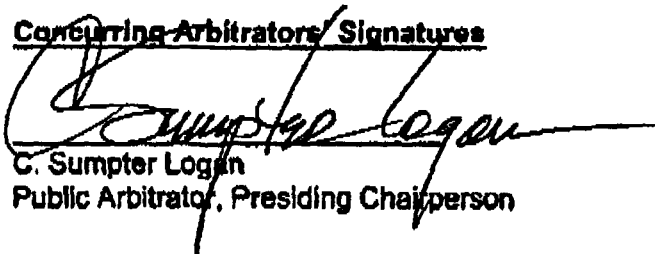
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9/6/06
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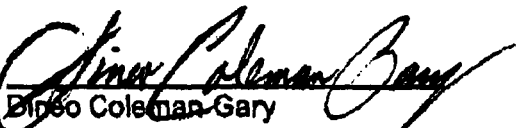
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Public Arbitrator, Presiding Chairperson

Signature Date


Dineo Coleman Gary
Public Arbitrator

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Signature Date

Lewis W. Pollok, III
Non-Public Arbitrator

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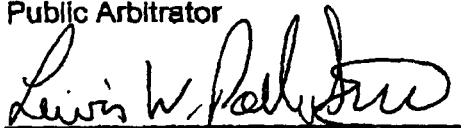
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