

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

The Helen Tenenholtz Revocable Trust dated 12/8/94, Claimant v. Morgan Stanley DW Inc., Morgan Stanley & Co., Incorporated, Morgan Stanley Trust, and Morgan Stanley, Respondents

Case Number: 04-08835

Hearing Site: San Diego, California

Nature of the Dispute: Customer v. Members and Non-Members

REPRESENTATION OF PARTIES

For Claimant the Helen Tenenholtz Revocable Trust dated 12/8/94 ("Claimant"):

Steven M. Green, Esq.
Law Offices of Steven M. Green
San Diego, California

For Respondent Morgan Stanley DW Inc. ("MSDW"):

Debra R. Volland, Esq.
Morgan Stanley DW Inc.
San Francisco, California

CASE INFORMATION

Statement of Claim filed: December 30, 2004

First Amended Statement of Claim filed: April 25, 2006

Claimant's Uniform Submission Agreement signed: July 17, 2004

Statement of Answer and Motion to Dismiss filed by Respondent Morgan Stanley DW Inc.: May 19, 2005

Respondent Morgan Stanley DW Inc.'s Uniform Submission Agreement signed: May 18, 2005

CASE SUMMARY

Claimant alleged breach of contract, breach of fiduciary duty, unsuitability, fraud and deceit, intentional and negligent misrepresentation and omission of facts, conversion, negligence, violation of federal and state securities laws, violation of NASD rules, and failure to supervise. Claimant's allegations involved transactions in unspecified securities.

Respondent MSDW denied the allegations of wrongdoing set forth in Claimant's Statement of Claim.

RELIEF REQUESTED

Claimant requested \$105,000.00 in compensatory damages, rescission, unspecified punitive damages, interest, and costs, including attorney's fees.

Respondent MSDW requested dismissal of Claimant's Statement of Claim in its entirety, and costs, including attorney's fees.

OTHER ISSUES CONSIDERED AND DECIDED

On April 5, 2005, Claimant and Claimant's counsel signed a Waiver Agreement expressly waiving any and all rights and benefits under California Civil Code Section 1542 and the California Ethical Standards for Neutral Arbitrators. Pursuant to the Code of Arbitration Procedure IM-10100, the waiver of the Claimant shall constitute and operate as a waiver for all member firms and associated persons (including terminated or otherwise inactive member firms or associated persons) against whom the Claim has been filed.

On April 26, 2005, Claimant dismissed Respondent Morgan Stanley & Co. without prejudice.

On May 19, 2005, Respondent MSDW filed a Motion to Dismiss Claimant's Statement of Claim. On August 24, 2004, Claimant filed an Opposition. A telephonic pre-hearing conference was held on October 24, 2005 to hear the parties' respective oral arguments on the Motion. After due consideration, the Panel denied Respondent MSDW's Motion to Dismiss.

On January 6, 2006, Claimant filed a Motion for Leave to Amend its Statement of Claim pursuant to the NASD Code of Arbitration Procedure Rule 10328(b). A Supplemental Motion to Amend was filed by Claimant on January 17, 2006. Claimant's proposed Amended Statement of Claim sought to name three additional parties: Morgan Stanley,

Morgan Stanley Trust, and Morgan Stanley & Company, Inc.¹ On January 20, 2006, Respondent MSDW filed an Opposition to the Motion. Claimant filed a Reply to Respondent MSDW's Opposition on January 23, 2006. A telephonic pre-hearing conference was held on January 25, 2006 to hear the parties' respective oral arguments. On March 25, 2006, the Panel granted Claimant's Motion for Leave to Amend its Statement of Claim.

On February 2, 2006, Respondent MSDW filed a Motion for Reconsideration of the Panel's Order to Allow Amendment of the Statement of Claim. Claimant filed an Opposition thereto on February 8, 2006. After due consideration, the Panel denied Respondent MSDW's Motion for Reconsideration.

The Panel dismissed without prejudice Respondent Morgan Stanley Trust and Morgan Stanley upon a finding that they were not required to submit to arbitration pursuant to the Code of Arbitration Procedure.

At the commencement of the case, Respondent MSDW's counsel, Debra Volland, Esq. stated that she was entering an appearance solely on behalf of MSDW and not on behalf of the other various company affiliates of Morgan Stanley. Ms. Volland stated that MSDW denied liability; however, if the Panel found liability, that MSDW agreed to accept liability for any damages found by the Panel to have been caused by any corporate affiliate. Therefore, the Panel determined that the arbitration of this matter would proceed without Respondent Morgan Stanley & Co., Incorporated.

At the conclusion of Claimant's case, Respondent MSDW moved the Panel to dismiss Claimant's Statement of Claim on the grounds that Claimant failed to prove any cause of action, that the stated events were barred by applicable statute of limitations, and that the matter was res judicata, having been determined by a probate judge. The Panel deferred decision on the motion until the conclusion of the case. At conclusion of the case, after due deliberation, 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.

¹ On April 26, 2006, Claimant dismissed Respondent Morgan Stanley & Co., Incorporated without prejudice. Claimant proposed that it be allowed to re-name Morgan Stanley & Co., Incorporated.

AWARD

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

- 1) Respondent Morgan Stanley DW, Inc. is liable to and shall pay Claimant the Helen Tenenholtz Revocable Trust dated 12/8/94 the sum of \$4,038.67 in compensatory damages.
- 2) Respondent Morgan Stanley DW Inc. is liable to and shall pay Claimant the Helen Tenenholtz Revocable Trust dated 12/8/94 simple interest on \$4,038.67 at the rate of 6% per annum from June 19, 2000, until payment of this Award is made in full.
- 3) Morgan Stanley & Co., Incorporated is dismissed with prejudice.
- 4) The parties shall bear their respective costs, including attorney's fees.
- 5) All other relief requested and not expressly granted, is denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Dispute Resolution received or will collect the non-refundable filing fees for each claim as follows:

Initial claim filing fee	= \$ 300.00
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Member Fees

Member fees are assessed to each member firm that is either a party in the matter or an employer of a respondent associated person at the time of the events that gave rise to the dispute, claim, or controversy. Accordingly, the member firms Morgan Stanley DW Inc. and Morgan Stanley & Co. Incorporated are parties and the following fees are assessed to each:

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

Forum Fees and Assessments

The Panel 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 arbitrator(s), including a pre-hearing conference, that lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) Pre-hearing conference session with a single arbitrator @ \$450.00/session	= \$ 450.00
Pre-hearing conference: January 11, 2006 1 session	

Three (3) Pre-hearing conference sessions with the Panel @ \$1,125.00/session	= \$ 3,375.00
Pre-hearing conferences: July 15, 2005 1 session	
October 24, 2005 1 session	
January 25, 2006 1 session	

Six (6) Hearing sessions @ \$1,125.00/session	= \$ 6,750.00
Hearings: August 22, 2006 2 sessions	
August 23, 2006 2 sessions	
August 24, 2006 2 sessions	

Total Forum Fees	= \$10,575.00
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1. The Panel assessed \$5,287.50 of the forum fees to Claimant the Helen Tenenholtz Revocable Trust dated 12/8/94.
2. The Panel assessed \$5,287.50 of the forum fees to Respondent Morgan Stanley DW Inc.

Fee Summary

1. Claimant The Helen Tenenholtz Revocable Trust dated 12/8/94 is charged with the following fees and costs:

Initial Filing Fee	= \$ 300.00
Forum Fees	= \$ 5,287.50
Total Fees	= \$ 5,587.50
Less payments	= \$ (1,425.00)
Balance Due NASD Dispute Resolution	= \$ 4,162.50

2. Respondent Morgan Stanley DW Inc. is charged with the following fees and costs:

Member Fees	= \$ 5,200.00
Forum Fees	= \$ 5,287.50
Total Fees	= \$10,487.50
Less payments	= \$ (5,950.00)
Balance Due NASD Dispute Resolution	= \$ 4,537.50

3. Respondent Morgan Stanley & Co. Incorporated is charged with the following fees and costs:

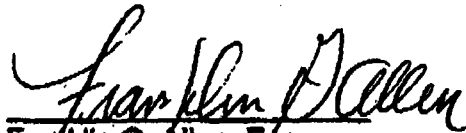
Member Fees	= \$ 5,200.00
Less payments	= \$ (1,700.00)
Balance Due NASD Dispute Resolution	= \$ 3,500.00

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

ARBITRATION PANEL

Franklin G. Allen, Esq.	-	Public Arbitrator, Presiding Chair
Harvey C. Flodin, Esq.	-	Public Arbitrator
Anatoly "Tony" Zuban	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures



Franklin G. Allen, Esq.
Chair, Public Arbitrator

8-29-2006
Signature Date

Harvey C. Flodin, Esq.
Public Arbitrator

Signature Date

Anatoly "Tony" Zuban
Non-Public Arbitrator

Signature Date

8/30/06
Date of Service

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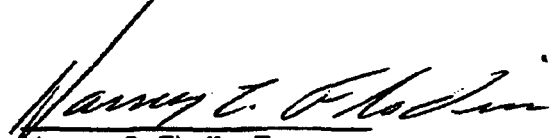
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