
Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimant
Larry Bishop

Case Number: 05-00130

Name of the Respondent
Morgan Stanley DW, Inc.

Hearing Site: Memphis, TN

Nature of the Dispute: Customer vs. Member.

REPRESENTATION OF PARTIES

For Larry Bishop, hereinafter referred to as "Claimant": H. Naill Falls, Jr., Esq., Falls & Veach, Nashville, TN.

For Morgan Stanley DW, Inc. ("MSDW"), hereinafter referred to as "Respondent": James F. Sanders, Esq., Neal & Harwell, PLC, Nashville, TN.

CASE INFORMATION

Statement of Claim filed on or about: January 10, 2005.

Claimant signed the Uniform Submission Agreement: January 5, 2005.

Statement of Answer filed by Respondent on or about: March 17, 2005.

Respondent signed the Uniform Submission Agreement: February 10, 2005.

CASE SUMMARY

Claimant asserted the following causes of action: breach of the general duties of reasonable care, honesty, and disclosure; unsuitability; common law fraud; breach of fiduciary duty; negligence; respondeat superior; and, control person liability. The causes of action relate to the purchase of NASDAQ 100 depository shares and Class B shares of Morgan Stanley funds including the Information Fund, the Aggressive Equity Fund, and the Health Sciences Fund in Claimant's accounts.

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

RELIEF REQUESTED

Claimant requested unspecified compensatory damages, prejudgment interest, costs, attorneys' fees, punitive damages, and such further relief as the undersigned arbitrators (the "Panel") deemed to be just and proper.

Respondent requested dismissal of the Statement of Claim, that judgment be entered in its favor, and such other and further relief to which it may be entitled.

OTHER ISSUES CONSIDERED AND DECIDED

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

The Panel finds that Claimant has carried his burden of proof on the claim of negligence against Respondent MSDW and awards Claimant the sum of \$30,000.00, inclusive of interest, attorneys' fees and expenses.

Respondent is liable and shall pay to Claimant the sum of \$250.00 representing reimbursement of the claim filing fee previously paid by Claimant to NASD Dispute Resolution.

All other asserted claims of liability filed against Respondent MSDW in these proceedings are denied.

Any and all claims for relief not specifically addressed herein, including Claimant's request for punitive damages, 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, Respondent MSDW is a member firm and a party.

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:

November 1 and 2, 2005, adjournment by Respondent.	= \$1,000.00
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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.

No injunctive relief fees were 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:

Two (2) Pre-hearing sessions with the Panel @ \$1,000.00/session	= \$2,000.00
Pre-hearing conferences: May 17, 2005 1 session	
October 24, 2005 1 session	
Two (2) Hearing sessions @ \$1,000.00/session	= \$2,000.00
Hearing Date: January 3, 2006 2 sessions	
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Total Forum Fees	= \$4,000.00

The Panel has assessed the total forum fees of \$4,000.00 to Respondent.

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.

No administrative costs were incurred during these proceedings.

Fee Summary

Claimant is solely liable for:

Initial Filing Fee	= \$ 250.00
Total Fees	= \$ 250.00
Less payments	= \$ 250.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondent is solely liable for:

Member Fees	= \$4,450.00
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Adjournment Fees	= \$1,000.00
Forum Fees	= \$4,000.00
Total Fees	= \$9,450.00
Less payments	= \$5,450.00
Balance Due NASD Dispute Resolution	= \$4,000.00

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

ARBITRATION PANEL

Fred M. Ridolphi, Jr., Esq.	-	Public Arbitrator, Presiding Chairperson
Michael Richards, Esq.	-	Public Arbitrator
David T. Maddux	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

_____/s/
Fred M. Ridolphi, Jr., Esq.
Public Arbitrator, Presiding Chairperson

January 6, 2006
Signature Date

_____/s/
Michael Richards, Esq.
Public Arbitrator

January 6, 2006
Signature Date

_____/s/
David T. Maddux
Non-Public Arbitrator

January 6, 2006
Signature Date

January 6, 2006
Date of Service (For NASD Dispute Resolution use only)

Jan. 6. 2006 12:51PM
NASD Dispute Resolution
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Adjournment Fees	= \$1,000.00
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Michael Richards, Esq.
David T. Maddux

- Public Arbitrator, Presiding Chairperson
- Public Arbitrator
- Non-Public Arbitrator

Concurring Arbitrators' Signatures


Fred M. Ridolphi, Jr., Esq.
Public Arbitrator, Presiding Chairperson

1-06-06
Signature Date

Michael Richards, Esq.
Public Arbitrator

Signature Date

David T. Maddux
Non-Public Arbitrator

Signature Date

Date of Service (For NASD Dispute Resolution use only)

Jan. 6. 2006 12:53PM
NASD Dispute Resolution
Arbitration No. 05-00130
Award Page 4 of 4

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Concurring Arbitrators' Signatures

Fred M. Ridolphi, Jr., Esq.
Public Arbitrator, Presiding Chairperson

Signature Date


Michael Richards, Esq.
Public Arbitrator

01/06/05
Signature Date

David T. Maddux
Non-Public Arbitrator

Signature Date

Date of Service (For NASD Dispute Resolution use only)

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NASD Dispute Resolution
Arbitration No. 05-00130
Award Page 4 of 4

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<u>Forum Fees</u>	<u>= \$4,000.00</u>
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Michael Richards, Esq.	- Public Arbitrator
David T. Maddux	- Non-Public Arbitrator


Concurring Arbitrators' Signatures

Fred M. Ridolphi, Jr., Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

Michael Richards, Esq.
Public Arbitrator

Signature Date



David T. Maddux
Non-Public Arbitrator

1/4/06

Signature Date

Date of Service (For NASD Dispute Resolution use only)