

AWARD
NASD Dispute Resolution

In the Matter of the Arbitration Between

Names of Claimants

Frank Hartmann, Jr. individually and as Trustee
of the Hartmann Family Living Trust dated 5/26/99
and Nancy P. Hartmann as Trustee of the Hartman
Family Living Trust dated 5/26/99

and

Case Number: 05-02168
Hearing Site: Houston, Texas

Name of Respondent

Morgan Stanley DW, Inc.

NATURE OF DISPUTE

Customers v. Member Firm

REPRESENTATION OF PARTIES

Frank Hartmann, Jr. individually and as Trustee of the Hartmann Family Living Trust dated 5/26/99 and Nancy P. Hartmann as Trustee of the Hartman Family Living Trust dated 5/26/99 ("**Claimants**") were represented by Greg Simon, Esq. and Randy Cohn, Esq., Simmons Cooper, LLC, East Alton, Illinois.

Morgan Stanley DW, Inc. ("**Respondent**" or "**MSDW**") was represented by Michael J. Stanley, Esq., Stanley, Phillips & Bell, LLP, Houston, Texas.

CASE INFORMATION

The Statement of Claim was filed on or about April 26, 2005. The Submission Agreement of Claimants, Frank Hartmann, Jr. individually and as Trustee of the Hartmann Family Living Trust dated 5/26/99 and Nancy P. Hartmann as Trustee of the Hartman Family Living Trust dated 5/26/99, was signed on or about May 16, 2005.

The Statement of Answer was filed by Respondent, Morgan Stanley DW, Inc., on or about June 16, 2005. The Submission Agreement of Respondent, Morgan Stanley DW, Inc., was signed on or about February 16, 2006.

CASE SUMMARY

Claimants asserted the following causes of action: breach of fiduciary duty, breach of contract, suitability and negligence. The causes of action related to the recommendation and purchase of various unspecified securities. Claimant alleged that Respondent MSDW permitted their broker, Tuan Nguyen, to invest their retirement assets in a variety of equity-oriented mutual funds (Class B) and engaged in market timing of equities, which went against their investment objective - retirement. Claimant also alleged that MSDW demonstrated reckless conduct by allowing an over-allocation to be comprised of high-risk, volatile growth stocks.

Unless specifically admitted in its Answer, Respondent denied the allegations made in the Statement of Claim and asserted affirmative defenses including the following: the Statement of Claim failed to state a claim upon which relief can be granted; Claimants' claims are barred by the doctrine of comparative responsibility; Claimants' claims are barred by the doctrines of laches, waiver, estoppel and the applicable statutes of limitations; Claimant ratified and waived any claims they might have had against Respondent because of their own actions; and Claimants failed to mitigate their damages.

RELIEF REQUESTED

Claimants requested an award in the amount of:

Actual/Compensatory Damages	\$ 500,000.00
Punitive/Exemplary Damages	\$6,000,000.00
Interest	Unspecified
Attorneys' Fees	Unspecified
Other Costs	Unspecified
Other Monetary Relief	Unspecified

Respondent requested that the claims asserted against it be denied in their entirety and that it be awarded its costs and attorneys' fees.

OTHER ISSUES CONSIDERED & DECIDED

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 NASD Dispute Resolution ("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.) Claimants' claims, each and all, are hereby denied and dismissed with prejudice;
- 2.) Other than Forum Fees which are specified below, the parties shall each bear their own costs and expenses incurred in this matter; and
- 3.) Any relief not specifically enumerated, including punitive damages and attorneys' fees, is hereby denied with prejudice.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Dispute Resolution will retain the non-refundable filing fee for each claim:

Initial claim filing fee = \$ 600.00

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

Member surcharge = \$ 3,350.00
Pre-hearing process fee = \$ 750.00
Hearing process fee = \$ 5,500.00

Forum Fees and Assessments

The Arbitration Panel assesses forum fees for each hearing session conducted. A hearing 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 x \$450.00 = \$ 450.00

Pre-hearing conference:	March 8, 2006	1 session	
One (1) Pre-hearing session with Panel x	\$1,200.00		= \$ 1,200.00
Pre-hearing conference:	August 22, 2005	1 session	
Six (6) Hearing sessions x	\$1,200.00		= \$ 7,200.00
Hearing Dates:	April 4, 2006	2 sessions	
	April 5, 2006	2 sessions	
	April 6, 2006	2 sessions	
Total Forum Fees			= \$ 8,850.00

The Arbitration Panel has assessed \$4,425.00 of the forum fees jointly and severally to Frank Hartmann, Jr. individually and as Trustee of the Hartmann Family Living Trust dated 5/26/99 and Nancy P. Hartmann as Trustee of the Hartman Family Living Trust dated 5/26/99.

The Arbitration Panel has assessed \$4,425.00 of the forum fees to Morgan Stanley DW, Inc.

Fee Summary

Claimants, Frank Hartmann, Jr. individually and as Trustee of the Hartmann Family Living Trust dated 5/26/99 and Nancy P. Hartmann as Trustee of the Hartman Family Living Trust dated 5/26/99, are jointly and severally liable for:

Initial Filing Fee	= \$ 600.00
Forum Fees	= \$ 4,425.00
Total Fees	= \$ 5,025.00
Less payments	= \$ 1,800.00
Balance Due NASD Dispute Resolution	= \$ 3,225.00

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

Member Fees	= \$ 9,600.00
Forum Fees	= \$ 4,425.00
Total Fees	= \$ 14,025.00
Less payments	= \$ 9,600.00
Balance Due NASD Dispute Resolution	= \$ 4,425.00

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

ARBITRATION PANEL

James Sean Healey - Public Arbitrator, Presiding Chair
Henry R. Barracano - Public Arbitrator
Joshua D. Wallach - Non-Public Arbitrator

Concurring Arbitrators:

/s/ James Sean Healey
James Sean Healey
Public Arbitrator, Presiding Chair

April 12, 2006
Signature Date

/s/ Henry R. Barracano
Henry R. Barracano
Public Arbitrator

April 12, 2006
Signature Date

/s/ Joshua D. Wallach
Joshua D. Wallach
Non-Public Arbitrator

April 13, 2006
Signature Date

April 12, 2006
Date of Service (For NASD office use only)


ARBITRATION PANEL

James Sean Healey - Public Arbitrator, Presiding Chair

Henry R. Barracano - Public Arbitrator

Joshua D. Wallach - Non-Public Arbitrator

Concurring Arbitrators:


James Sean Healey
Public Arbitrator, Presiding Chair


Signature Date

Henry R. Barracano
Public Arbitrator

Signature Date

Joshua D. Wallach
Non-Public Arbitrator

Signature Date

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ARBITRATION PANEL

James Sean Healey - Public Arbitrator, Presiding Chair
Henry R. Barracano - Public Arbitrator
Joshua D. Wallach - Non-Public Arbitrator

Concurring Arbitrators:

James Sean Healey
Public Arbitrator, Presiding Chair



Henry R. Barracano
Public Arbitrator

Signature Date

12 APRIL 2006

Signature Date

Joshua D. Wallach
Non-Public Arbitrator

Signature Date

Date of Service (For NASD office use only)

ARBITRATION PANEL

James Sean Healey - Public Arbitrator, Presiding Chair
Henry R. Barracano - Public Arbitrator
Joshua D. Wallach - Non-Public Arbitrator

Concurring Arbitrators:

James Sean Healey
Public Arbitrator, Presiding Chair

Signature Date

Henry R. Barracano
Public Arbitrator

Signature Date



Joshua D. Wallach
Non-Public Arbitrator

4/13/06

Signature Date

Date of Service (For NASD office use only)