
Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimant
Paul T. Chapple

Case Number: 05-02855

Name of the Respondent
Morgan Stanley DW, Inc.

Hearing Site: Birmingham, Alabama

Nature of the Dispute: Customer vs. Member.

REPRESENTATION OF PARTIES

For Paul T. Chapple, hereinafter referred to as "Claimant": Milton H. Fried, Jr., Esq., Woska & Hayes, LLP, Kingswood, Texas.

For Morgan Stanley DW, Inc., hereinafter referred to as "Respondent": Peter S. Fruin, Esq., Maynard, Cooper & Gale, P.C., Birmingham, Alabama.

CASE INFORMATION

Statement of Claim filed on or about: May 26, 2005.

Claimant signed the Uniform Submission Agreement: May 25, 2005.

Statement of Answer filed by Respondent on or about: August 26, 2005..

Respondent signed the Uniform Submission Agreement: July 12, 2005.

CASE SUMMARY

Claimant asserted the following causes of action: 1) controlling person liability; 2) breach of fiduciary duty; 3) breach of contract; 4) failure to diversify; 5) unsuitability; 6) failure to supervise; 7) failure to hedge; 8) violation of "know your customer" rule; 9) violation of securities laws; 10) intentional and negligent misrepresentation; and, 11) gross negligence. The causes of action relate to the purchase of various technology stocks and mutual funds including, but not limited to, MSDW Aggressive Equity Fund B, MSDW Information Fund B, MSDW 21st Century Trend Fund B, MSDW American Opportunities Fund B, MSDW Developing Growth Fund B, Sun Microsystems and Worldcom, Inc. 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 compensatory damages in the amount of \$300,000.00, pre and post-judgment

interest at the maximum statutory rate, costs including expert witness fees, attorneys' fees, punitive damages and all other and further relief as the Panel deemed he may be entitled.

Respondent requested that the Statement of Claim be dismissed in its entirety and an award of costs and forum fees, attorneys' fees, expenses and such other relief as the Panel deemed appropriate.

OTHER ISSUES CONSIDERED AND DECIDED

During the final hearings for this matter, Respondent made a Motion for Direct Verdict/Judgment. Claimant opposed the motion but withdrew claims for failure to hedge and violation of "know your customer" rule, as well as any claims for fraud and intentional misrepresentation. The Panel took the motion under advisement.

The parties have agreed that the Award in this matter may be entered in counterpart copies or that a signed handwritten 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:

Respondent is found not liable and Claimant's claims are denied in their entirety.

Any and all claims for relief not specifically addressed herein, including the parties' requests for attorneys' fees and 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	= \$ 300.00
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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 that employed the associated person at the time of the events giving rise to the dispute. Accordingly, Respondent is a party to this dispute and was a member of NASD at the time the following fees were assessed:

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

Adjournment Fees

No requests for adjournments were filed in this matter for which fees were assessed.

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 cancellation fees were assessed in this matter.

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 incurred during this proceeding.

Forum Fees and Assessments

The Panel has assessed forum fees for each session conducted. 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) Decision on a discovery-related motion on the papers	= \$ 200.00
with one (1) Arbitrator @\$200.00	

Respondent submitted one (1) discovery-related motion

One (1) Pre-hearing session with the Panel @ \$1,125.00	= \$1,125.00
Pre-hearing conference: November 14, 2005	1 session

Six (6) Hearing sessions with the Panel @ \$1,125.00	= \$6,750.00
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Hearing Dates:	September 12, 2006	2 sessions
	September 13, 2006	2 sessions
	September 14, 2006	2 sessions

Total Forum Fees	= \$8,075.00
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The Panel has assessed \$5,384.00 of the forum fees to Claimant.

The Panel has assessed \$2,691.00 of the forum fees 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 this proceeding.

Fee Summary

Claimant is solely liable for:

Initial Filing Fee	= \$ 300.00
Forum Fees	= \$ 5,384.00
Total Fees	= \$ 5,684.00
Less payments	= \$ 1,425.00
Balance Due NASD Dispute Resolution	= \$ 4,259.00

Respondent is solely liable for:

Member Fees	= \$ 5,200.00
Forum Fees	= \$ 2,691.00
Total Fees	= \$ 7,891.00
Less payments	= \$ 5,200.00
Balance Due NASD Dispute Resolution	= \$ 2,691.00

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

ARBITRATION PANEL

<i>Fred M. Ridolphi, Jr., Esq.</i>	-	<i>Public Arbitrator, Presiding Chairperson</i>
<i>Norman David Freeman</i>	-	<i>Public Arbitrator</i>
<i>Barbara Carraway Dogan, Esq.</i>	-	<i>Non-Public Arbitrator</i>

Concurring Arbitrators' Signatures

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

09/18/06
Signature Date

_____/s/
Norman David Freeman
Public Arbitrator

09/18/06
Signature Date

_____/s/
Barbara Carraway Dogan, Esq.
Non-Public Arbitrator

09/18/06
Signature Date

09/19/06
Date of Service (For NASD Dispute Resolution office use only)

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Norman David Freeman

Barbara Carraway Dogan, Esq.

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

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Public Arbitrator, Presiding Chairperson

9-18-06
Signature Date

Norman David Freeman
Public Arbitrator

Signature Date

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Norman David Freeman	-	Public Arbitrator
Barbara Carraway Dogan, Esq.	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

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

Norman David Freeman
 Norman David Freeman
 Public Arbitrator

Signature Date

September 18, 2006
 Signature Date

Barbara Carraway Dogan, Esq.
 Non-Public Arbitrator

Signature Date

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Public Arbitrator, Presiding Chairperson

Signature Date

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Public Arbitrator

Signature Date

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Barbara Carraway Dogan, Esq.
Non-Public Arbitrator

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