
Stipulated Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimant
Karen Maciag

Case Number: 05-03457

Names of the Respondents
Morgan Stanley DW Inc.
William Messner

Hearing Site: Boca Raton, Florida

Name of the Third Party Respondent
Lynn Messner

Nature of the Dispute: Customer vs. Member and Associated Person vs. Customer.

REPRESENTATION OF PARTIES

For Karen Maciag, hereinafter referred to as "Claimant": Darren C. Blum, Esq., Blum & Silver, LLP, Coral Springs, Florida.

For Morgan Stanley DW Inc. ("MSDW") and William Messner ("W. Messner"), hereinafter referred to as "Respondents": Peter W. Homer, Esq., Christopher King, Esq. and Brian A. Briz, Esq., HomerBonner, Miami, Florida.

Third Party Respondent Lynn Messner ("L. Messner"), appeared pro se.

CASE INFORMATION

Statement of Claim filed on or about: June 30, 2005.

Claimant signed the Uniform Submission Agreement: June 28, 2005.

Statement of Answer, Counterclaim and Third Party Claim filed by Respondents on or about: September 30, 2005.

Respondent MSDW signed the Uniform Submission Agreement: August 12, 2005.

Respondent W. Messner signed the Uniform Submission Agreement: October 17, 2005.

Third Party Respondent L. Messner did not file a signed Uniform Submission Agreement or a Statement of Answer.

CASE SUMMARY

Claimant asserted the following causes of action: 1) violation of NYSE Rule 405 and NASD Rule 2310; 2) violation of NASD Rules 2830(k) and 2110; 3) breach of contract; 4) breach of fiduciary duty;

5) common law fraud; 6) negligence; and, 7) negligent hiring, retention and supervision. The causes of action relate to the purchase of various mutual funds including, but not limited to, Pimco and American Funds in Claimant's accounts.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted various affirmative defenses. Respondents asserted a counterclaim alleging that Claimant was contractually bound in both her individual and managed account to indemnify Respondent MSDW for losses arising from trade decisions. In addition, Respondents filed a Third Party Claim against L. Messner alleging him to be the primary decision-maker, advisor and de facto agent.

Unless specifically admitted in her Answer to the Counterclaim, Claimant denied the allegations made in the Statement of Claim and asserted various affirmative defenses

RELIEF REQUESTED

Claimant requested an unspecified amount of compensatory damages, interest at the legal rate from the date of purchase or reasonable market return, rescission, punitive damages, costs of this proceeding and for such other relief as the Panel deemed just and proper.

Respondents requested that the Statement of Claim be denied. In addition, Respondents' requested that the Panel enter an order expunging this matter from the NASD Central Registration Depository (the "CRD") records of Respondent W. Messner. Furthermore, Respondents reserved their right to pursue costs and fees in a court of competent jurisdiction. In their Counterclaim, they requested indemnification and/or contribution from Claimant and, in their Third Party Claim, they requested indemnification and/or contribution from Third Party Respondent L. Messner.

OTHER ISSUES CONSIDERED AND DECIDED

Third Party Respondent L. Messner did not file with NASD Dispute Resolution a properly executed submission to arbitration but is required to submit to arbitration pursuant to the NASD Code of Arbitration Procedure (the "Code") and is bound by the determination of the Panel on all issues submitted.

On or about May 25, 2006, the parties submitted to NASD Dispute Resolution a stipulation of a voluntary dismissal, with prejudice, of Respondent W. Messner.

On or about August 28, 2006, the parties notified NASD Dispute Resolution that this matter was resolved and that the parties would be submitting a proposed Stipulated Award with a request for expungement of the NASD CRD record of Respondent W. Messner.

On or about September 26, 2006, the parties submitted to NASD Dispute Resolution a proposed Stipulated Award with a request for expungement of the NASD CRD record of Respondent W. Messner.

The parties have agreed that the Stipulated Award in this matter may be entered in counterpart

copies or that a signed handwritten Stipulated Award may be entered.

AWARD

The parties entered into an agreement to present to the Panel a Stipulated Award. Now, in lieu of a hearing and upon motion of both parties for an entry of an award, the written stipulation thereto, the Panel grants the motion and enters this award granting the following relief:

Claimant's claims for relief are dismissed, with prejudice.

Respondents' Counterclaim and Third Party Claim are dismissed, with prejudice.

The parties are to bear their respective costs and attorneys' fees.

Pursuant to NASD Rule 2130, the Panel makes the affirmative finding that Respondent W. Messner was not involved in the alleged investment-related sales practice violation, as the investments at issue were placed by an independent investment advisor and Respondent W. Messner did not place any, could not have placed any and did not make any investment recommendations for the investment transactions at issue.

The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent W. Messner's registration records maintained by the NASD CRD, with the understanding that pursuant to NASD Notices to Members 04-16, Respondent W. Messner must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

Unless specifically waived in writing by the NASD, parties seeking judicial confirmation of an arbitration award containing expungement relief must name NASD as an additional party and serve NASD with all appropriate documents

Any and all claims for relief not specifically addressed herein, including Claimant's request for punitive damages, are 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
Counterclaim Filing Fee	= \$ 500.00

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, Respondent MSDW is a party to this dispute and was a member of NASD at the time the following fees were assessed:

Member surcharge	= \$ 1,500.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$ 2,200.00
Total Member Fees	= \$ 4,450.00

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

No requests for adjournments were filed in this matter.

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) Pre-hearing session with the Panel @ \$1,000.00	= \$1,000.00
Pre-hearing conference: January 23, 2006 1 session	
Total Forum Fees	= \$1,000.00

The Panel has assessed \$500.00 of the forum fees to Claimant.

The Panel has assessed \$500.00 of the forum fees jointly and severally to Respondents MSDW and W. Messner.

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	= \$ 250.00
Forum Fees	= \$ 500.00
Total Fees	= \$ 750.00
Less payments	= \$ 750.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondent MSDW is solely liable for:

Member Fees	= \$ 4,450.00
Total Fees	= \$ 4,450.00
Less payments	= \$ 4,450.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondents MSDW and W. Messner are jointly and severally liable for:

Counterclaim Filing Fee	= \$ 500.00
Forum Fees	= \$ 500.00
Total Fees	= \$ 1,000.00
Less payments	= \$ 1,000.00
Balance Due NASD Dispute Resolution	= \$ 0.00

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

ARBITRATION PANEL

<i>Richard E. Conner, Esq.</i>	-	<i>Public Arbitrator, Presiding Chairperson</i>
<i>Patricia Morin, M.S.</i>	-	<i>Public Arbitrator</i>
<i>Thomas R. Noonan</i>	-	<i>Non-Public Arbitrator</i>

Concurring Arbitrators' Signatures

_____/s/
Richard E. Conner, Esq.
Public Arbitrator, Presiding Chairperson

10/09/06
Signature Date

_____/s/
Patricia Morin, M.S.
Public Arbitrator

10/12/06
Signature Date

/s/
Thomas R. Noonan
Non-Public Arbitrator

10/16/06
Signature Date

10/16/06
Date of Service (For NASD Dispute Resolution office use only)

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 Patricia Morin, M.S.
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- Public Arbitrator, Presiding Chairperson
 - Public Arbitrator
 - Non-Public Arbitrator

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Richard E. Conner, Esq.
 Public Arbitrator, Presiding Chairperson

OCTOBER 9, 2006

Signature Date

Patricia Morin, M.S.
 Public Arbitrator

Signature Date

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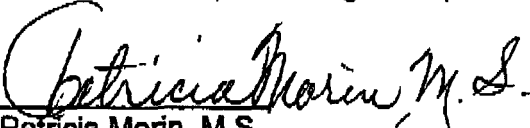
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Public Arbitrator, Presiding Chairperson


Patricia Morin, M.S.
Public Arbitrator

Signature Date

10-12-06
Signature Date



Thomas R. Noonan
Non-Public Arbitrator

10-16-06

Signature Date

Date of Service (For NASD Dispute Resolution office use only)