

**Award  
NASD Dispute Resolution**

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In the Matter of the Arbitration Between:

Names of the Claimants

Norma J. Hecox Revocable Trust, TTEE  
Norma J. Hecox

Case Number: 05-06734

Names of the Respondents

Morgan Stanley DW Inc.  
Corby Dean Wright

Hearing Site: Little Rock, Arkansas

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

**REPRESENTATION OF PARTIES**

For Norma J. Hecox Revocable Trust, TTEE and Norma J. Hecox, hereinafter collectively referred to as "Claimants": J. Lamar Porter, Esq., The Brad Hendricks Law Firm, P.A., Little Rock, Arkansas.

For Morgan Stanley DW Inc. ("MSDW") and Corby Dean Wright ("Wright"), hereinafter collectively referred to as "Respondents": Cal G. Gonzales, Esq., Counsel for Morgan Stanley DW Inc., San Francisco, California.

**CASE INFORMATION**

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

Claimants signed the Uniform Submission Agreement on: April 22, 2006.

Statement of Answer filed by Respondents on or about: April 5, 2006.

Respondent MSDW signed the Uniform Submission Agreement: April 4, 2006.

Respondent Wright signed the Uniform Submission Agreement: April 5, 2006.

Claimants' Motion to Amend the Statement of Claim filed on or about: October 19, 2006.

Respondents' Opposition to Claimants' Motion to Amend the Statement of Claim filed on or about: November 1, 2006.

Claimant's Amended Statement of Claim and Amount of Damages Claimed filed on or about: November 14, 2006.

**CASE SUMMARY**

Claimants asserted the following causes of action: 1) misrepresentation; 2) unsuitability; 3) unauthorized trading; 4) breach of fiduciary duty; 5) breach of contract; and, 6) violations of the Arkansas Securities Act. The causes of action relate to Claimants' stock investments in, including but not limited to, WorldCom, Hartford and Motorola.

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

### **RELIEF REQUESTED**

Claimants requested in the Statement of Claim, as amended: 1) compensatory damages in the amount of \$85,537.79; 2) punitive damages in the amount of \$50,000.00; 3) costs; 4) attorneys' fees; and, 5) other case-related costs.

Respondents requested: 1) the Statement of Claim be dismissed in its entirety; 2) that the NASD Central Registration Depository ("CRD") records of Respondent Wright be expunged of all references to this matter; 3) costs; and, 4) any other relief as deemed appropriate.

### **OTHER ISSUES CONSIDERED AND DECIDED**

On or about November 10, 2006, the Panel granted Claimants' Motion to Amend the Statement of Claim.

During the evidentiary hearing, Respondents made an ore tenus Motion to Dismiss the Statement of Claim based upon statute of limitations. The Panel denied the motion as to the contract claim and granted the motion as to all other claims, with prejudice.

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.

### **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:

Respondents MSDW and Wright, jointly and severally, are found liable under the cause of action of breach of contract and shall pay to Claimants \$34,305.97 in compensatory damages.

Respondents MSDW and Wright, jointly and severally, shall pay to Claimants \$15,000.00 in attorneys' fees under the authority of the Arkansas Code Annotated 16-22-308.

Respondent Wright's request for expungement is denied.

Any and all claims not specifically addressed herein, including Claimants' claim for punitive damages, are denied and dismissed with prejudice.

### **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

### **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 and a member firm.

Member surcharge	= \$1,700.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$2,750.00
Total Member fees	= \$5,200.00

### **Adjournment Fees**

Adjournments granted during these proceedings for which fees were assessed:

There were no adjournments requested during these proceedings 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:

There were no three-day cancellation fees 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.

There were no injunctive relief fees assessed during these proceedings.

### **Forum Fees and Assessments**

The Panel has 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 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 @ \$1,125.00/session	= \$2,250.00
Pre-hearing conferences: May 30, 2006	1 session
November 6, 2006	1 session

Six (6) Hearing sessions @ \$1,125.00/session		= \$6,750.00
Hearing Dates:	November 16, 2006	2 sessions
	November 17, 2006	2 sessions
	January 10, 2007	2 sessions

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Total Forum Fees	= \$9,000.00
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The Panel has assessed \$9,000.00 of the forum fees to Respondents MSDW and Wright, jointly and severally.

### **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 are not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

There were no administrative costs incurred during these proceedings.

### **Fee Summary**

Claimants are jointly and severally liable for:

<u>Initial Filing Fee</u>	= \$ 300.00
<u>Total Fees</u>	= \$ 300.00
<u>Less payments</u>	= \$ 300.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondent MSDW is solely liable for:

<u>Member Fees</u>	= \$5,200.00
<u>Total Fees</u>	= \$5,200.00
<u>Less payments</u>	= \$5,200.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondents MSDW and Wright, jointly and severally, are liable for:

<u>Forum Fees</u>	= \$9,000.00
<u>Total Fees</u>	= \$9,000.00
<u>Less payments</u>	= \$1,500.00
Balance Due NASD Dispute Resolution	= \$7,500.00

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

### **ARBITRATION PANEL**

John A. Davis, III, Esq.	-	Public Arbitrator, Presiding Chairperson
Frances S. Fendler, Esq.	-	Public Arbitrator
Donna J. Young	-	Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

/s/  
John A. Davis, III, Esq.  
Public Arbitrator, Presiding Chairperson

January 24, 2007  
Signature Date

/s/  
Frances S. Fendler, Esq.  
Public Arbitrator

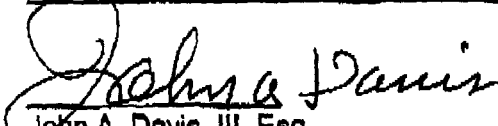
January 26, 2007  
Signature Date

/s/  
Donna J. Young  
Non-Public Arbitrator

January 24, 2007  
Signature Date

January 26, 2007  
Date of Service (For NASD Dispute Resolution office use only)

Concurring Arbitrators' Signatures

  
John A. Davis, III, Esq.  
Public Arbitrator, Presiding Chairperson

1/24/07  
Signature Date

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Frances S. Fendler, Esq.  
Public Arbitrator

\_\_\_\_\_  
Signature Date

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Donna J. Young  
Non-Public Arbitrator

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Signature Date

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**Concurring Arbitrators' Signatures**

John A. Davis, III, Esq.  
Public Arbitrator, Presiding Chairperson

Signature Date

Frances S. Fendler  
Frances S. Fendler, Esq.  
Public Arbitrator

1/26/07  
Signature Date

Donna J. Young  
Non-Public Arbitrator

Signature Date

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

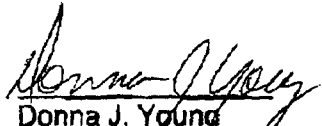
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Non-Public Arbitrator

1-24-07  
Signature Date

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