Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimant
Magdalena Cruzval

Case Number: 04-07039

Names of the Respondents
Morgan Stanley DW, Inc.
Diana Castillo

Hearing Site: San Juan, Puerto Rico

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

REPRESENTATION OF PARTIES

For Magdalena Cruzval ("Cruzval"), hereinafter referred to as "Claimant": Scott L. Silver, Esq., Blum & Silver, L.L.P., Coral Springs, Florida.

For Morgan Stanley DW, Inc. ("MSDW") and Diana Castillo ("Castillo"), hereinafter collectively referred to as "Respondents": Nestor M. Mendez Gomez, Esq., Pietrantoni Mendez & Alvarez, L.L.P., San Juan, Puerto Rico and Peter Homer, Esq., Homer & Bonner, P.A., Miami, Florida.

CASE INFORMATION

Statement of Claim filed on or about: October 5, 2004.
Claimant signed the Uniform Submission Agreement: August 24, 2004.
Statement of Answer filed by Respondents on or about: December 3, 2004.
Respondent MSDW signed the Uniform Submission Agreement: December 3, 2004.
Respondent Castillo signed the Uniform Submission Agreement: December 6, 2004.
Motion to Consolidate filed by Respondents on or about: June 16, 2005.
Claimant's Objections and Response to Respondents' Motion to Consolidate filed on or about: July 1, 2005.
Respondents' Response to Claimant's Objections to Motion to Consolidate filed on or about: July 5, 2005.
Motion for Summary Disposition filed by the Respondents on or about: July 6, 2005.

CASE SUMMARY

Claimant asserted the following causes of action: churning; misrepresentation; unsuitability; negligence; breach of contract; breach of fiduciary duty; common law fraud; respondeat superior; violation of industry rules, including but not limited to the NYSE's know your customer standard (Rule 405); violation of NASD's customer suitability standard (Rule 2310); violation of the Florida Statues, including but not limited to Chapter 517; and, violation of the Puerto Rico statutes. The causes of action relate to the purchase of, among other things, the following technology and telecommunication stocks: America Online, Nextel Communications, Tickets.com, Metasolv Software, Cache Flow, Extreme Networks, Internet Initiative Japan, Inc., K Tel, Zitel, McAfee.com, Ciena Corporation, Corel, Vignette Corporation, and Espeed. Additionally, Respondents purchased Unit VK Focus Port Internet 17, Unit VK Focus Port Software 2, and other investment trusts in Claimant's account.

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

RELIEF REQUESTED

Claimant requested compensatory damages in the amount of $863,000.00; punitive damages; interest at the legal rate from the date of purchase or reasonable market return; rescission; costs; attorneys' fees; and, such other relief as is just and proper.

Respondents requested dismissal of the Statement of Claim. In addition, Respondents requested that they be awarded forum fees, costs, and such other further relief as the Panel deemed just and proper, including but not limited to, an express finding of expungement of this matter from the Respondents' Central Registration Depository ("CRD") records, and the right to seek attorneys' fees in a court of competent jurisdiction as provided by Section 517 of the Florida Statutes.

OTHER ISSUES CONSIDERED AND DECIDED

On or about July 12, 2005, the Panel heard oral argument of the Respondents' Motion for Consolidation and Motion for Summary Disposition. Thereafter, the Panel issued an Order that denied both motions.

During the evidentiary hearing, on or about July 26, 2005, Respondents made an ore tenus motion to prohibit discussion of the proceedings by Claimant with her husband. The Panel denied said motion.

On or about September 13, 2005, the Panel issued an order that required the parties to file with NASD an Affidavit of Cost and Expenses incurred by each party in connection with this matter.

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:

Respondent MSDW is liable for the claims of failure to supervise, know your customer rule and unsuitability. As such, Respondent MSDW shall pay to Claimant compensatory damages in the amount of $125,000.00.

Respondent MSDW is liable and shall pay to Claimant the following costs:

A. Arc Analytics, LLC, $1530.83;
B. Image Source, $4,441.17;
C. Experts Counsel, Inc., $12,500.00;
D. Scott L. Silver, Esq. hearing expenses, $1,800.00;
E. Federal Express charges, $1,452.68;
F. Client meetings, $938.34; and,
G. Telephone, legal research, postage and photocopying, $875.25.

All other parties' requests for costs are denied.

The Panel found no violation under Chapter 517 of the Florida Statutes and, as such, the parties' requests for attorneys' fees 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	= $ 375.00

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	= $2,250.00
Pre-hearing process fee	= $ 750.00
Hearing process fee	= $4,000.00
Total Member Fees	= $7,000.00

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

No adjournment fees were incurred 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 three-day cancellation fees were incurred 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 in this matter.

Forum Fees and Assessments

The Arbitrator (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 a single arbitrator @ $450.00/session			= $ 900.00
Pre-hearing conferences:	June 1, 2005	1 session	
	July 18, 2005	1 session	
Three (3) Pre-hearing sessions with the Panel @ $1,200.00/session			= $ 3,600.00
Pre-hearing conferences:	February 2, 2005	1 session	
	July 12, 2005	1 session	
	July 21, 2005	1 session	
Ten (10) Hearing sessions @ $1,200.00/session			= $12,000.00
Hearing Dates:	July 26, 2005	2 sessions	
	July 27, 2005	3 sessions	
	July 28, 2005	3 sessions	
	July 29, 2005	2 sessions	
Total Forum Fees			= $16,500.00

The Panel assessed the total forum fees of $16,500.00 to Respondent MSDW.

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 in this matter.

Fee Summary

Claimant is solely liable for:

Initial Filing Fee	= $ 375.00
Total Fees	= $ 375.00
Less payments	= $ 375.00
Balance Due NASD Dispute Resolution	= $ 0.00

Respondent MSDW is solely liable for:

Member Fees	= $ 7,000.00
Forum Fees	= $16,500.00
Total Fees	= $23,500.00
Less payments	= $11,000.00
Balance Due NASD Dispute Resolution	= $12,500.00

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

ARBITRATION PANEL

Arnold Levine, Esq.	-	Non-Public Arbitrator, Presiding Chairperson
Monroe Mitchell	-	Public Arbitrator
Thomas Czinner	-	Public Arbitrator

Concurring Arbitrators' Signatures

/s/ September 28, 2005
Arnold Levine, Esq. Signature Date
Non-Public Arbitrator, Presiding Chairperson

/s/ September 28, 2005
Monroe Mitchell Signature Date
Public Arbitrator

/s/ September 28, 2005
Thomas Czinner Signature Date
Public Arbitrator

September 28, 2005
Date of Service (For NASD Dispute Resolution office use only)

Respondent MSDW is solely liable for:

Member Fees	= $ 7,000.00
Forum Fees	= $16,500.00
Total Fees	= $23,500.00
Less payments	= $11,000.00
Balance Due NASD Dispute Resolution	= $12,500.00

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

ARBITRATION PANEL

Arnold Levine, Esq.	-	Non-Public Arbitrator, Presiding Chairperson
Monroe Mitchell	-	Public Arbitrator
Thomas Czinner	-	Public Arbitrator

Concurring Arbitrators' Signatures

Arnold Levine, Esq.
Non-Public Arbitrator, Presiding Chairperson

9/28/05
Signature Date

Monroe Mitchell
Public Arbitrator

Signature Date

Thomas Czinner
Public Arbitrator

Signature Date

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

Respondent MSDW is solely liable for:

Member Fees	= $ 7,000.00
Forum Fees	= $16,500.00
Total Fees	= $23,500.00
Less payments	= $11,000.00
Balance Due NASD Dispute Resolution	= $12,500.00

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

ARBITRATION PANEL

Arnold Levine, Esq.	-	Non-Public Arbitrator, Presiding Chairperson
Monroe Mitchell	-	Public Arbitrator
Thomas Czinner	-	Public Arbitrator

Concurring Arbitrators' Signatures

Arnold Levine, Esq.
Non-Public Arbitrator, Presiding Chairperson

Signature Date

Monroe Mitchell
Public Arbitrator

9/28/05
Signature Date

Thomas Czinner
Public Arbitrator

Signature Date

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

Respondent MSDW is solely liable for:

Member Fees	= $ 7,000.00
Forum Fees	= $16,500.00
Total Fees	= $23,500.00
Less payments	= $11,000.00
Balance Due NASD Dispute Resolution	= $12,500.00

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

ARBITRATION PANEL

Arnold Levine, Esq.	-	Non-Public Arbitrator, Presiding Chairperson
Monroe Mitchell	-	Public Arbitrator
Thomas Czinner	-	Public Arbitrator

Concurring Arbitrators' Signatures

Arnold Levine, Esq.
Non-Public Arbitrator, Presiding Chairperson

Signature Date

Monroe Mitchell
Public Arbitrator

Signature Date

Thomas Czinner
Public Arbitrator

9-28-05
Signature Date

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