

**AWARD**  
**NASD Dispute Resolution, Inc.**

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In the Matter of the Arbitration Between

Charles H. Rawlings

and

01-00361  
Southfield, Michigan

Morgan Stanley Dean Witter, Inc., and  
James Cooley

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**REPRESENTATION OF PARTIES**

Charles H. Rawlings ("Claimant") was represented by Anthony V. Trogan, Esq., West Bloomfield, Michigan.

Dean Witter Reynolds, Inc. a/k/a Morgan Stanley Dean Witter, Inc. ("MSDW") and James Cooley ("Cooley"), hereinafter referred to as Respondents were represented by Bruce Lewitas, Esq., Chicago, Illinois.

**CASE INFORMATION**

The Statement of Claim was filed on or about January 16, 2001. Exhibit "A" to the Statement of Claim was filed on or about July 16, 2001. The Submission Agreement of Claimant Charles H. Rawlings was signed on or about January 16, 2001.

The Statement of Answer was filed by Respondents Morgan Stanley Dean Witter, Inc. and James Cooley on or about March 6, 2001. The Submission Agreement of Respondent MSDW was signed on or about March 7, 2001 by Ronald E. Wood.

**CASE SUMMARY**

Claimant asserted that Respondents did not effectuate the liquidation of Claimant's VanWagoner Fund as requested.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted affirmative defenses including the following: The assets Claimant wished to have sold were not initially in Respondents' possession, or subject to their control. Respondents acted promptly in seeking to bring about the sale and transfer of his externally held assets. Consequently any delay in the actual discharge of those instructions was caused by persons and entities other than, and not subject to the control of Respondents, and the change in value of Claimant's assets between the time Respondents sent the request for sale and transfer and the time of receipt was not influenced or controlled by either Respondent, consequently, Respondents cannot be liable for any such change in value.

### **RELIEF REQUESTED**

Claimant requested an award in the amount of \$225,000.00 as out-of-pocket losses, plus interest at 12%, costs, actual attorneys' fees, exemplary and punitive damages, and additional damages as allowed by the Panel.

Respondents requested unspecified relief.

### **OTHER ISSUES CONSIDERED & DECIDED**

The Claimant withdrew his claims against Respondent James Cooley on or about June 19, 2001.

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 the NASD Dispute Resolution, Inc. (the "NASD").

### **AWARD**

After considering the pleadings, the testimony, and the evidence presented at the hearing, if any, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

- 1.) Respondent, Morgan Stanley Dean Witter, Inc., is liable for and shall pay to Claimant, Charles H. Rawlings, the sum of \$225,000 in compensatory damages;
- 2.) That other than Forum Fees which are specified below, the parties shall each bear their own costs and expenses incurred in this matter;
- 3.) That any relief not specifically enumerated, including exemplary and punitive damages, is hereby denied with prejudice.

### **FEES**

Pursuant to the Code, the following fees are assessed:

#### **Filing Fees**

NASD Dispute Resolution, Inc. will retain 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(s) that employed the associated person(s) at the time of the events giving rise to the dispute. In this matter, the member firm is Morgan Stanley Dean Witter, Inc.

Member surcharge	= \$1,500.00
Pre-hearing process fee	= \$ 600.00
Hearing process fee	= \$2,500.00

### **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 arbitrator(s), including a pre-hearing conference with the arbitrator(s), that lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) Pre-hearing session with Panel x \$1,125.00	= \$1,125.00
Pre-hearing conference: July 11, 2001 1 session	
Four (4) Hearing sessions x \$1,125.00	= \$4,500.00
Hearing Dates: January 22, 2002 2 sessions	
January 23, 2002 2 sessions	
<b>Total Forum Fees</b>	<b>= \$5,625.00</b>

The Arbitration Panel has assessed \$2,812.50 of the forum fees to Charles H. Rawlings.

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### **Fee Summary**

Claimant, Charles H. Rawlings, is liable for:

Initial Filing Fee	= \$ 300.00
Forum Fees	= \$ 2,812.50
<b>Total Fees</b>	<b>= \$ 3,112.50</b>
<b>Less payments</b>	<b>= \$ 1,425.00</b>
<b>Balance Due NASD Dispute Resolution, Inc.</b>	<b>= \$ 1,687.50</b>

Respondent, Morgan Stanley Dean Witter, Inc., is liable for:

Member Fees	= \$ 4,600.00
Forum Fees	= \$ 2,812.50
Total Fees	= \$ 7,412.50
Less payments	= \$ 2,100.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 5,312.50

**All balances are due to NASD Dispute Resolution, Inc.**

**ARBITRATION PANEL**

Peter P. Cobbs, Esq. - Public Arbitrator, Presiding Chair  
Richard E. Michel, Ph.D. - Public Arbitrator  
William H. Morris, CFA - Non-Public Arbitrator

Concurring Arbitrators:

/s/ Peter P. Cobbs, Esq.  
Peter P. Cobbs, Esq.  
Public Arbitrator, Presiding Chair

02/01/02  
Signature Date

/s/ Richard E. Michel, Ph.D.  
Richard E. Michel, Ph.D.  
Public Arbitrator

02/01/02  
Signature Date

/s/ William H. Morris, CFA  
William H. Morris, CFA  
Non-Public Arbitrator

02/01/02  
Signature Date

02/04/02  
Date of Service (For NASD office use only)

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Concurring Arbitrators:

Peter P. Cobbs  
Peter P. Cobbs, Esq.  
Public Arbitrator, Presiding Chair

February 1, 2002  
Signature Date

Richard E. Michel, Ph.D.  
Richard E. Michel, Ph.D.  
Public Arbitrator

Signature Date

William H. Morris, CFA  
William H. Morris, CFA  
Non-Public Arbitrator

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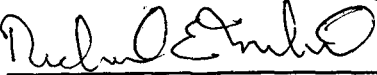
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Richard E. Michel, Ph.D.  
Public Arbitrator

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Signature Date

1 February 2002  
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