

**Stipulated Award  
NASD Dispute Resolution**

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In the Matter of the Arbitration Between:

Name of the Claimant  
Robert Almeda

Case Number: 01-02174

Name of the Respondents  
Morgan Stanley Dean Witter, Inc.  
Nicholas Giaconia

Hearing Site: Philadelphia, PA

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**REPRESENTATION OF PARTIES**

Claimant, Robert Almeda ("Almeda"), hereinafter referred to as "Claimant", was represented by John H. Adler, Esq., Earp Cohn, P.C., Westmont, New Jersey.

Respondents, Morgan Stanley Dean Witter, Inc. ("Morgan Stanley") and Nicholas Giaconia ("Giaconia"), hereinafter collectively referred to as "Respondents", were represented by Gary E. Jackson, Esq., Morgan Stanley Dean Witter, New York, New York.

**CASE INFORMATION**

Statement of Claim filed on April 25, 2001.

Claimant signed the Uniform Submission Agreement on April 8, 2001.

Statement of Answer filed by Respondents on July 25, 2001.

A representative of Respondent Morgan Stanley signed the Uniform Submission Agreement on July 24, 2001.

Respondent Giaconia signed the Uniform Submission Agreement on July 2, 2001.

**CASE SUMMARY**

Claimant asserted the following causes of action: unsuitability; churning; and, failure to supervise. The causes of action relate to the purchase and sale of unspecified securities.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted the following defenses: failure to state a claim; ratification; estoppel; failure to mitigate; and, waiver.

**RELIEF REQUESTED**

Claimant requested the following damages:

Compensatory Damages	\$ 250,000
Punitive Damages	\$ 250,000

Interest	unspecified
Attorneys' Fees	unspecified
Other Costs	unspecified

Respondents requested that the claims be dismissed in their entirety.

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

Prior to the hearing, the Parties fully and finally settled all claims by and between them. Therefore, the Parties submit this Stipulated Award to the Panel for its consideration and request that it be entered.

The parties have agreed that the Stipulated Award in this matter may be executed in counterpart copies.

#### **AWARD**

Pursuant to the above, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Nicholas Giaconia's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notices to Members 99-09 and 99-54, Respondent Nicholas Giaconia must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive;
2. The parties shall bear their respective costs, including attorney's fees, except as Fees are specifically addressed below; and,
3. Any and all relief not specifically addressed herein, including punitive damages, is denied in its entirety.

#### **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	= \$ 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, Morgan Stanley Dean Witter, Inc. is a party.

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

**Adjournment Fees**

Adjournments granted during these proceedings for which fees were assessed:

September 10-11, 2002, adjournment by Claimant	= \$ 1,125.00
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**Forum Fees and Assessments**

The 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:

One (1) Pre-hearing session with Panel @ \$ 1,125.00	= \$ 1,125.00
Pre-hearing conference: March 25, 2002 1 session	
Total Forum Fees	= \$ 1,125.00

1. The Panel has assessed \$ 562.50 of the forum fees to Claimant.
2. The Panel has assessed \$ 562.50 of the forum fees jointly and severally to Respondents.

**Fee Summary**

1. Claimant is assessed:

Initial Filing Fee	= \$ 300.00
Adjournment Fee	= \$ 1,125.00
Forum Fees	= \$ 562.50
Retained Hearing Session Deposit	= \$ 562.50

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Total Fees	= \$ 2,550.00
Less payments	= \$ 2,550.00

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Balance Due NASD Dispute Resolution	= \$ 0.00
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2. Respondent Morgan Stanley is assessed:

Member Fees	= \$ 4,600.00
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Total Fees	= \$ 4,600.00
Less payments	= \$ 4,600.00

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Balance Due NASD Dispute Resolution	= \$ 0.00
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3. Respondents Morgan Stanley and Giaconia are jointly and severally assessed:

Forum Fees = \$ 562.50

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Total Fees = \$ 562.50

Less payments = \$ 0.00

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Balance Due NASD Dispute Resolution = \$ 562.50

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

**ARBITRATION PANEL**

Robert F. Sanville	-	Public Arbitrator, Chairperson
Sheldon Seligsohn, Esq.	-	Public Arbitrator, Panelist
Catherine Ladnier	-	Non-Public Arbitrator, Panelist

**Concurring Arbitrators' Signatures**

Robert F. Sanville  
Robert F. Sanville  
Public Arbitrator, Chairperson

4/21/2003  
Signature Date

Sheldon Seligsohn, Esq.  
Sheldon Seligsohn, Esq.  
Public Arbitrator, Panelist

Signature Date

Catherine Ladnier  
Catherine Ladnier  
Non-Public Arbitrator, Panelist

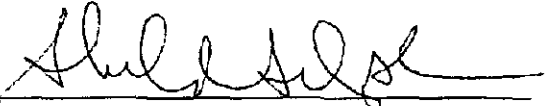
Signature Date

June 25, 2003  
Date of Service (For NASD Dispute Resolution office use only)

**Concurring Arbitrators' Signatures**

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Robert F. Sanville  
Public Arbitrator, Chairperson

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

  
\_\_\_\_\_  
Sheldon Seligsohn, Esq.  
Public Arbitrator, Panelist

4/19/03  
\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Catherine Ladnier  
Non-Public Arbitrator, Panelist

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

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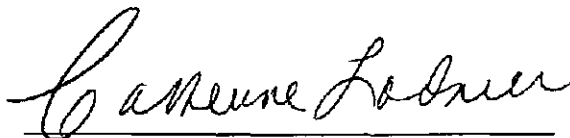
**Concurring Arbitrators' Signatures**

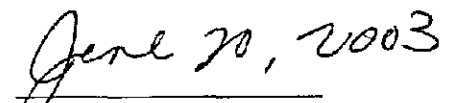
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