

**Award**  
**NASD Dispute Resolution**

---

In the Matter of the Arbitration Between:

Young Pil Kim, Claimant v. Morgan Stanley Dean Witter, Inc., Gapsik Choo and Gene Pak,  
Respondents

Case Number: 01-02186

Hearing Site: Los Angeles, California

---

**REPRESENTATION OF PARTIES**

For Claimant:

Marc I. Zussman, Esq.  
Law Offices of Marc I. Zussman, Esq.  
Los Angeles, California

For Respondents:

Keith Guilfoyle, Esq.  
Morgan Stanley Dean Witter, Inc.  
New York, New York

Ronald E. Wood, Esq.  
Morgan Stanley Dean Witter, Inc.  
Santa Ana, California

**CASE INFORMATION**

Statement of Claim filed: April 27, 2001

Claimant's Uniform Submission Agreement signed: April 27, 2001

Joint Statement of Answer filed by Respondents: June 26, 2001

Respondent Morgan Stanley Dean Witter, Inc.'s Uniform Submission Agreement signed: June 23, 2001

Respondent Gapsik Choo's Uniform Submission Agreement signed: June 22, 2001

Respondent Gene Pak's Uniform Submission Agreement signed: June 21, 2001

**CASE SUMMARY**

Claimant alleged breach of contract, breach of fiduciary duty, unsuitability, fraud, negligent misrepresentation, failure to supervise, negligence, and violation of NASD and NYSE Rules and Federal and State securities laws. The claim involved unspecified technology securities.

Respondents denied the allegations of wrongdoing set forth in the Claimant's Statement of Claim.

**RELIEF REQUESTED**

Claimant requested \$41,158.00 in actual damages, punitive damages according to proof, prejudgment and post-judgment interest, and costs and attorney's fees.

Respondents requested dismissal of the Claimant's Statement of Claim in its entirety.

**OTHER ISSUES CONSIDERED AND DECIDED**

At the hearing, Respondents moved for directed verdict. After considering Respondents' motion, the Panel denied the motion for directed verdict.

The parties 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, testimony, and evidence presented at the hearing, the Panel *decided in full and final resolution of the issues submitted for determination as follows:*

1. Respondents Morgan Stanley Dean Witter, Inc. and Gene Pak are jointly and severally liable to and shall pay Claimant the sum of \$24,264.50 in compensatory damages, \$2,426.45 in pre-hearing interest and \$5,575.00 in costs.
2. Respondents Morgan Stanley Dean Witter, Inc. and Gene Pak are jointly and severally liable to and shall pay Claimant 10% post-hearing interest on the sum of \$32,265.95 commencing July 16, 2002 until the date the award is paid in full.
3. All claims against Respondent Gapsik Choo are denied in their entirety.
4. The parties shall bear their respective costs, including attorney's fees.
5. All other relief not expressly granted is denied.

### **FEES**

Pursuant to the Code, the following fees are assessed:

#### **Filing Fees**

NASD Dispute Resolution received or will collect the non-refundable filing fees for each claim as follows:

Initial claim filing fee	= \$ 175.00
--------------------------	-------------

#### **Member Fees**

Member fees are assessed to each member firm that is either a party in the matter or an employer of a respondent associated person at the time of the events which gave rise to the dispute, claim, or controversy. Accordingly, the member firm Morgan Stanley Dean Witter, Inc. is a party and the following fees are assessed:

Member Surcharge	= \$ 800.00
Pre-Hearing Process Fee	= \$ 600.00
Hearing Process Fee	= \$ 1,000.00
<b>Total Member Fees</b>	<b>= \$ 2,400.00</b>

#### **Forum Fees and Assessments**

The Panel assessed a forum fee for each pre-hearing conference or hearing session conducted. A pre-hearing conference and hearing session is any meeting between the parties and the Chair/Panel. The following fees are assessed:

1 Pre-hearing conference session with a single arbitrator @ \$ 450.00/session	= \$ 450.00
Pre-hearing conference: May 2, 2002 1 session	
1 Pre-hearing conference session with the Panel @ \$600.00/session	= \$ 600.00
Pre-hearing conference: March 1, 2002 1 session	
9 Hearing sessions @ \$600.00/session	= \$ 5,400.00
Hearings: July 8, 2002 2 sessions	
July 9, 2002 2 sessions	
July 10, 2002 2 sessions	
July 12, 2002 2 sessions	
July 16, 2002 1 session	

---

<b>Total Forum Fees</b>	<b>= \$ 6,450.00</b>
-------------------------	----------------------

The Panel assessed \$ 6,450.00 of the forum fees jointly and severally to Respondents Morgan Stanley Dean Witter, Inc. and Gene Pak.

**Administrative Costs**

Administrative costs are expenses incurred because a party requested additional services beyond the normal administrative services. These additional services include, but are not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, security, and sundry other requests.

Claimant requested copies of audio transcripts:	= \$ 45.00
Respondent Morgan Stanley Dean Witter, Inc. requested copies of audio transcripts:	= \$ 150.00

**Fee Summary**

1. Claimant, Young Pil Kim, is charged with the following fees and costs:

Initial Filing Fee	= \$ 175.00
<u>Administrative Costs</u>	= \$ 45.00
<u>Total Fees</u>	= \$ 220.00
<u>Less payments</u>	= \$ (670.00)
<b>Refund Due Claimant Young Pil Kim</b>	<b>= \$ (450.00)</b>
2. Respondent, Morgan Stanley Dean Witter, Inc., is charged with the following fees and costs:

Member Fees	= \$ 2,400.00
<u>Administrative Costs</u>	= \$ 150.00
<u>Total Fees</u>	= \$ 2,550.00
<u>Less payments</u>	= \$ (2,400.00)
<b>Balance Due NASD Dispute Resolution</b>	<b>= \$ 150.00</b>
3. Respondents, Morgan Stanley Dean Witter, Inc. and Gene Pak, are charged jointly and severally with the following fees and costs:

Forum Fees	= \$ 6,450.00
<u>Less payments</u>	= \$ (0.00)
<b>Balance Due NASD Dispute Resolution</b>	<b>= \$ 6,450.00</b>

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

**ARBITRATION PANEL**

Douglas L. Stenzel, Esq.	-	Public Arbitrator, Presiding Chair
Vincent J. Natoli, Jr.	-	Public Arbitrator
Brian L. Spahr, CFP	-	Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

---

Douglas L. Stenzel, Esq.  
Chair, Public Arbitrator

---

Signature Date

---

Vincent J. Natoli, Jr.  
Public Arbitrator

---

Signature Date

---

Brian L. Spahr, CFP  
Non-Public Arbitrator

---

Signature Date

8/5/02

---

Date of Service

**ARBITRATION PANEL**

Douglas L. Stenzel, Esq.

Vincent J. Natoli, Jr.

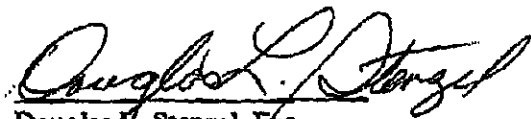
Brian L. Spahr, CFP

Public Arbitrator, Presiding Chair

Public Arbitrator

Non-Public Arbitrator

**Concurring Arbitrators' Signatures**



Douglas L. Stenzel, Esq.  
Chair, Public Arbitrator

  
Signature Date

Vincent J. Natoli, Jr.  
Public Arbitrator

Signature Date

Brian L. Spahr, CFP  
Non-Public Arbitrator

Signature Date

8/5/02  
Date of Service

NABD Dispute Resolution  
Arbitration No. 01-02186  
Award Page 3 of 3

**ARBITRATION PANEL**

Douglas L. Stenzel, Esq.  
Vincent J. Natoli, Jr.  
Brian L. Spahr, CFP

Public Arbitrator, Presiding Chair  
Public Arbitrator  
Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

Douglas L. Stenzel, Esq.  
Chair, Public Arbitrator

Vincent J. Natoli, Jr.  
Public Arbitrator

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

8/5/02  
\_\_\_\_\_  
Signature Date

Brian L. Spahr, CFP  
Non-Public Arbitrator

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

8/5/02  
\_\_\_\_\_  
Date of Service