

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimant
Yvonne C. Kendrick

Case Number: 01-02407

Names of the Respondents
Morgan Stanley Dean Witter, Inc.
Karen Hartman

Hearing Site: Atlanta, Georgia

REPRESENTATION OF PARTIES

For Yvonne C. Kendrick, hereinafter referred to as "Claimant": Richard Allan Kaye, Esq., Smith Moore LLP, Atlanta, Georgia and Steven J. Gard, Esq., Gard Smiley Bishop & Dovin, LLP, Atlanta, Georgia.

For Morgan Stanley Dean Witter, Inc. ("Morgan") and Karen Hartman ("Hartman"), hereinafter collectively referred to as "Respondents": James D. Yellen, Executive Director, Morgan Stanley Law Division, New York, New York and James F. Basile, Esq. and Elizabeth Deeley, Esq., Kirkland & Ellis, Washington, D.C.

CASE INFORMATION

Statement of Claim filed on or about: May 4, 2001.

Claimant signed the Uniform Submission Agreement: July 18, 2001.

Statement of Answer filed by Respondents on or about: August 7, 2001.

Respondent Morgan signed the Uniform Submission Agreement: August 7, 2001.

Respondent Hartman did not file an executed Uniform Submission Agreement.

Respondents' Motion to Dismiss Claimant's "Conflict of Interest" Claims filed on or about: January 17, 2003.

Claimant's Response to Respondents' Motion to Dismiss Claimant's "Conflict of Interest" Claims filed on or about: February 18, 2003.

CASE SUMMARY

Claimant asserted the following causes of action: breach of fiduciary duty-conflict of interest; misrepresentation and omissions under the Georgia Securities Act and common law violations of Georgia laws; unsuitability; over concentration; and, liability to Morgan as a controlling person and under respondeat superior. The causes of action relate to Respondents' recommendation and Claimant's purchase of 24,000 shares of 7% Exchangeable Preferred Securities Mandatorily Redeemable 2010 issued by CellNet Funding, LLC.

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 recovery of her investment losses in the amount of \$509,117.82, costs and reasonable attorneys' fees, punitive damages of \$500,000.00 and prejudgment interest.

Respondents requested dismissal of this action, an award in their favor, an order of expungement of Respondent Hartman's Central Registration Depository ("CRD") record of this claim, and attorneys' fees, costs and disbursements of this proceeding.

OTHER ISSUES CONSIDERED AND DECIDED

Respondent Hartman did not file with NASD Dispute Resolution a properly executed submission to arbitration but is required to submit to arbitration pursuant to the NASD Code of Arbitration Procedure (the "Code") and, having answered the claim, appeared and testified at the hearing, is bound by the determination of the Panel on all issues submitted.

Respondents filed a Motion to Dismiss Claimant's "Conflict of Interest" Claims. Claimant filed a response to Respondents' motion which asserted that the filing of such a motion by Respondents is improper under Rule 10303(a) of the Code. On April 15, 2003, the Panel issued an order which denied Respondents' motion.

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

AWARD

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

The Panel of Arbitrators finds that Claimant did not carry her burden of proving the right to recover against either Respondent, and enter an Award in favor of Respondents on all claims.

Each party shall bear its own legal fees and expenses.

Any and all claims for relief not specifically addressed herein, including Claimant's request for punitive damages, are denied.

The Panel recommends the expungement of all references to the above captioned arbitration from Respondent Hartman's registration records maintained by the NASD CRD, with the understanding that pursuant to NASD Notices to Members 99-09 and 99-54, Respondent Hartman must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

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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 = \$500.00

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. In this matter, the member firm is a party.

Member surcharge = \$2,500.00

Pre-hearing process fee = \$ 600.00

Hearing process fee = \$4,500.00

Adjournment Fees

No adjournments were granted for which fees were assessed 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 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:

Four (4) Pre-hearing sessions with a single arbitrator @ \$450.00 = \$1,800.00

Pre-hearing conferences:	August 27, 2002	1 session
	September 10, 2002	1 session
	October 1, 2002	1 session
	August 1, 2003	1 session

Two (2) Pre-hearing sessions with the Panel @ \$1,200.00 = \$2,400.00

Pre-hearing conferences:	February 22, 2002	1 session
	April 15, 2003	1 session

Six (6) Hearing sessions @ \$1,200.00 = \$7,200.00

Hearing Dates:	August 25, 2003	2 sessions
	August 26, 2003	2 sessions
	August 28, 2003	2 sessions

Forum Fees	= \$11,400.00
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The Panel has assessed \$5,700.00 of the forum fees to Claimant.

The Panel has assessed \$5,700.00 of the forum fees jointly and severally to Respondents.

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.

No administrative costs were incurred in this matter.

FEE SUMMARY

Claimant is solely liable for:

Initial Filing Fee	= \$ 500.00
Forum Fees	= \$ 5,700.00

Total Fees	= \$ 6,200.00
Less payments	= \$ 1,700.00

Balance Due NASD Dispute Resolution	= \$ 4,500.00
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Respondent Morgan is solely liable for:

Member Fees	= \$ 7,600.00
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Total Fees	= \$ 7,600.00
Less payments	= \$ 7,600.00

Balance Due NASD Dispute Resolution	= \$ 0.00
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Respondents are jointly and severally liable for:

Forum Fees	= \$ 5,700.00
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Total Fees	= \$ 5,700.00
Less payments	= \$ 600.00

Balance Due NASD Dispute Resolution	= \$ 5,100.00
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All balances are payable to NASD Dispute Resolution and are due upon receipt pursuant to Rule 10330(g) of the Code.

ARBITRATION PANEL

R. Wayne Thorpe, Esq.	-	Public Arbitrator, Presiding Chair
James H. McAvoy, Sr.	-	Public Arbitrator
Michael J. Stern	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

_____/S/_____
R. Wayne Thorpe, Esq.
Public Arbitrator, Presiding Chair

Signature Date

_____/S/_____
James H. McAvoy, Sr.
Public Arbitrator

Signature Date

_____/S/_____
Michael J. Stern
Non-Public Arbitrator

Signature Date

September 25, 2003

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


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Arbitration No. 01-02407
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10330(g) of the Code.

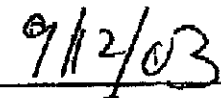
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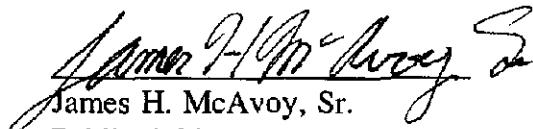
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FL ARBITRATION

10330(g) of the Code.

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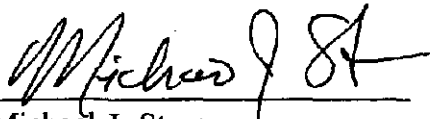
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