

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Names of the Claimants

Daniel Baitcher
Total Women's Rehab, Inc.

Case Number: 02-04743

Names of the Respondents

Morgan Stanley Dean Witter, Inc.
Kenneth F. Haelsig, Jr.
Sandra D. Sapp

Hearing Site: Tampa, Florida

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

REPRESENTATION OF PARTIES

For Daniel Baitcher ("Baitcher") and Total Women's Rehab, Inc., hereinafter collectively referred to as "Claimants": Patrick A. Davis, P.A., Clearwater, Florida.

For Morgan Stanley Dean Witter, Inc. ("Morgan"), Kenneth F. Haelsig, Jr. ("Haelsig") and Sandra D. Sapp ("Sapp"), hereinafter collectively referred to as "Respondents": Peter J. Aldrich, P.A., Palm Beach Gardens, Florida.

CASE INFORMATION

Statement of Claim filed on or about: August 9, 2002.

Claimants signed the Uniform Submission Agreements: August 14, 2002.

Statement of Answer filed by Respondents on or about: October 28, 2002.

Respondent Morgan signed the Uniform Submission Agreement: November 10, 2002.

Respondents Haelsig and Sapp signed the Uniform Submission Agreements: November 7, 2002.

CASE SUMMARY

Claimants asserted the following causes of action: violation of the Florida Securities Investor Protection Act; violation of the Securities Act of 1933; violation of the Securities Exchange Act of 1934; fraud; breach of fiduciary duties; negligence, gross negligence and negligent supervision; civil remedies for criminal practices; civil theft; and, unjust enrichment. The causes of action relate to trading in unspecified securities products in Claimants' accounts.

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

RELIEF REQUESTED

Claimants requested an award of actual damages; treble the actual damages sustained; punitive damages; an award in Claimants' favor for the commissions Respondents received from the transactions at issue in this case; prejudgment interest; costs; attorneys' fees, and such other relief

as the Panel deemed necessary and proper, including but not limited to, a rescission of the investment transactions described in the Statement of Claim.

Respondents requested that the claims described in the Statement of Claim be denied, that an award be entered in Respondents' favor, and that said award include costs and forum fees. Further, Respondents provided notice of their intention to seek attorneys' fees from a court of competent jurisdiction based on Sections 517.211, 57.105, 772.104 and 772.11 of the Florida Statutes.

OTHER ISSUES CONSIDERED AND DECIDED

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:

Respondents are found liable, jointly and severally, on the claim of negligence. Respondent Morgan is found liable on the claims of failure to supervise and for failing to maintain adequate records and for altering them after the fact so as to make any proof of activity or dates difficult. In addition, Respondent Morgan's order entry system had flaws and the use of it was so poorly monitored that the Panel cannot tell what orders were solicited and which were not solicited. Management of Morgan was aware of the flaws and chose to ignore them. Further, Respondent Haelsig failed to follow Claimants' accounts activity and failed to contact Claimant Baitcher about the high risk behavior he adopted, thus, failing his fiduciary duty. In addition, Respondent Sapp failed to correct records and order entry errors. Respondent Sapp did not adequately warn Claimant Baitcher or enlist the manager's aid in warning Claimant Baitcher about over-trading and speculating on margin, thus, breaching her fiduciary duty owed to Claimant.

As such, Respondents are liable, jointly and severally, and shall pay to Claimants the sum of \$125,000.00. Since the exact timing of the circumstances in this case is difficult to assess, the Panel does not apply interest to this amount. As such, pre-judgment interest is specifically excluded.

The charges of churning were not proven. There was no provable theft, conspiracy, or fraud as alleged in the Statement of Claim.

The Panel does not support awarding attorneys' fees to either side.

Any and all claims for relief not specifically addressed herein, including Claimants' claims for relief pursuant to the Florida Securities Investor Protection Act and Claimants' requests for punitive and treble damages, are denied.

The Panel recommends the expungement of all references to the criminal charges of theft and racketeering and the allegations of conspiracy and fraud made by Claimants in the above captioned arbitration from Respondents Haelsig and Sapp'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, Respondents Haelsig and Sapp must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

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	= \$250.00
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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(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	= \$1,500.00
Pre-hearing process fee	= \$750.00
Hearing process fee	= \$2,200.00

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

No adjournment 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:

Two Pre-hearing sessions with a single arbitrator @ \$450.00	= \$900.00
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Pre-hearing conferences: November 10, 2003 1 session
December 29, 2003 1 session

One Pre-hearing session with the Panel @ \$1,000.00 = \$1,000.00

Pre-hearing conference: March 27, 2003 1 session

Seventeen Hearing sessions @ \$1,000.00 = \$17,000.00

Hearing Dates: January 6, 2004 2 sessions
January 7, 2004 2 sessions
January 8, 2004 2 sessions
January 9, 2004 2 sessions
February 9, 2004 3 sessions
February 10, 2004 2 sessions
February 11, 2004 2 sessions
February 12, 2004 2 sessions

Total Forum Fees = \$18,900.00

The Panel has assessed \$9,450.00 of the forum fees to Claimants, jointly and severally.
The Panel has assessed \$9,450.00 of the forum fees to Respondents, jointly and severally.

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

Claimants are jointly and severally liable for:

Initial Filing Fee = \$250.00
Forum Fees = \$9,450.00

Total Fees = \$9,700.00
Less payments = \$1,700.00

Balance Due NASD Dispute Resolution = \$8,000.00

Respondent Morgan is solely liable for:

Member Fees = \$4,450.00

Total Fees = \$4,450.00
Less payments = \$4,450.00

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

Forum Fees	= \$9,450.00
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Total Fees	= \$9,450.00
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Less payments	= \$0.00
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Balance Due NASD Dispute Resolution	= \$9,450.00
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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

W.A. Westlake	-	Public Arbitrator, Presiding Chair
Robert W. Kneeland	-	Public Arbitrator
Norman D. Blakely	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

_____/S/_____
W.A. Westlake
Public Arbitrator, Presiding Chair

Signature Date

_____/S/_____
Robert W. Kneeland
Public Arbitrator

Signature Date

_____/S/_____
Norman D. Blakely
Non-Public Arbitrator

Signature Date

February 26, 2004
Date of Service (For NASD Dispute Resolution office use only)

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

Forum Fees	= \$9,450.00
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Total Fees	= \$9,450.00
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Less payments	= \$0.00
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Balance Due NASD Dispute Resolution	= \$9,450.00
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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

W.A. Westlake	-	Public Arbitrator, Presiding Chair
Robert W. Kneeland	-	Public Arbitrator
Norman D. Blakely	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures



W.A. Westlake
Public Arbitrator, Presiding Chair

February 20, 2004
Signature Date

Robert W. Kneeland
Public Arbitrator

Signature Date

Norman D. Blakely
Non-Public Arbitrator

Signature Date

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

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

Forum Fees	= \$9,450.00
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Total Fees	= \$9,450.00
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Less payments	= \$0.00
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Balance Due NASD Dispute Resolution	= \$9,450.00
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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.

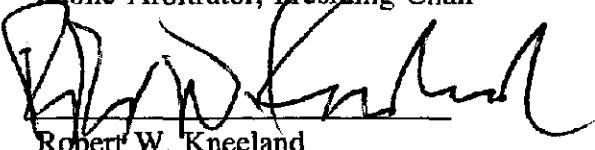
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W.A. Westlake	-	Public Arbitrator, Presiding Chair
Robert W. Kneeland	-	Public Arbitrator
Norman D. Blakely	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

W.A. Westlake
Public Arbitrator, Presiding Chair

Signature Date



Robert W. Kneeland
Public Arbitrator



Signature Date

Norman D. Blakely
Non-Public Arbitrator

Signature Date

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

NASD Dispute Resolution
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Balance Due NASD Dispute Resolution = \$0.00

Respondents are jointly and severally liable for:

Forum Fees = \$9,450.00

Total Fees = \$9,450.00

Less payments = \$0.00

Balance Due NASD Dispute Resolution = \$9,450.00

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

ARBITRATION PANEL

W.A. Westlake

Public Arbitrator, Presiding Chair

Robert W. Kneeland

Public Arbitrator

Norman D. Blakely

Non-Public Arbitrator

Concurring Arbitrators' Signatures

W.A. Westlake

Public Arbitrator, Presiding Chair

Signature Date

Robert W. Kneeland

Public Arbitrator

Signature Date


Norman D. Blakely

Non-Public Arbitrator

2-25-04
Signature Date

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