

**AWARD**  
**NASD Dispute Resolution**

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In the Matter of the Arbitration Between

Name of Claimant

Oyeyemi Adedeji- Orolugbagbe

and

02-5326

Milwaukee, Wisconsin

Name of Respondent

Morgan Stanley Dean Witter, Inc.

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Nature of the Dispute: Customer vs. Member

**REPRESENTATION OF PARTIES**

Oyeyemi Adedeji- Orolugbagbe ("**Claimant**") was represented by Mark E. Sanders, Esq. of Halling & Cayo, S.C., located in Milwaukee, Wisconsin.

Morgan Stanley Dean Witter, Inc., ("**Respondent**") or ("**MSDW**") was represented by Bruce Lewitias, Esq., Lewitas & Associates, P.C., located in Chicago, Illinois.

**CASE INFORMATION**

The Statement of Claim was filed on or about September 9, 2002. Submission Agreement of Claimant was signed on August 15, 2002.

Statement of Answer was filed by Respondent on December 23, 2002. Submission Agreement of MSDW was signed on December 16, 2002.

**CASE SUMMARY**

Claimant alleged the following causes of action against Respondent: violations of Wisconsin's Uniform Securities Law; transacting business without a license; violation of Section 551.41 of the Wisconsin statutes; fraud; negligent misrepresentation; breach of fiduciary duty; tortious conversation; and, negligence.

All of Claimant's causes of action relate to unauthorized and unsuitable purchases of stocks in Claimant's Account with MSDW.

Unless specially admitted in its Answer, Respondents denied the allegations set forth in Claimant's Statement of Claim and asserted the following affirmative defenses: Claimant fails to state a cause of action upon which relief may be granted; neither MSDW or its agent was a seller of securities; all transactions relating to Claimant's account were executed on an agency basis, with the Claimant being the actual buyer or seller of securities; Claimant has made no allegation describing any false or misleading statement affecting any security purchased or sold in Claimant's account; Claimant's Statement of Claim is barred, in whole or in part, by the equitable doctrines of laches; Claimant ratified all transactions in his account; and, any diminution in the value of Claimant's account was the result of market forces beyond Respondent's influence and control.

### **RELIEF REQUESTED**

Claimant requested an award in the amount of \$156,107.42 in compensatory damages and \$343,892.58 in punitive damages.

Respondents requested that the claims asserted against them be denied in their entirety.

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

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 originals remain on file with the NASD Dispute Resolution (the "NASD").

### **AWARD**

After considering the pleadings, the testimony, and the evidence presented at the hearing 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 Oyeyemi Adedeji- Orolugbagbe the sum of \$25,000.00 in compensatory damages;
2. That to the extent not specifically awarded or otherwise provided for above, all other claims and requests for relief by any party hereto are denied with prejudice; and,
3. Other than the Forum Fees noted below, the parties shall each bear all other costs and expenses incurred by them in connection with this proceeding, including but not limited to attorneys fees, not specifically awarded or otherwise provided for above.

### **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

#### **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 event giving rise to the dispute. In this matter, the member firm is MSDW.

Member surcharge	= \$	1,700.00
Pre-hearing process fee	= \$	750.00
Hearing process fee	= \$	2,750.00
Total Member Fees	= \$	<u>5,200.00</u>

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

2 Pre-hearing sessions with Panel	x	1,125.00	\$	2,250.00
June 18, 2003	1	session		
November 19, 2003	1	session		
4 Hearing sessions	x	1,125.00	\$	4,500.00
March 16, 2004	2	sessions		
March 17, 2004	2	sessions		
Total Forum Fees			\$	<u>6,750.00</u>

The Arbitration Panel has assessed \$ 6,750.00 of the forum fees to Respondent Morgan Stanley Dean Witter, Inc.

Fee Summary

Claimant, Oyeyemi Adedeji- Orolugbagbe, shall be and hereby is liable for:

Initial Filing Fee	= \$	300.00
Total Fees	= \$	300.00
<u>Less payments</u>	= \$	<u>-1,425.00</u>
Balance Refunded by NASD Dispute Resolution	= \$	1,125.00

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

Member Fees	= \$	5,200.00
Forum Fees	= \$	6,750.00
Total Fees	= \$	<u>11,950.00</u>
Less Payments	= \$	<u>-5,200.00</u>
Balance Due NASD Dispute Resolution	= \$	6,750.00

All balances are due to NASD Dispute Resolution

ARBITRATION PANEL

William Ross, Esq. - Public Arbitrator, Presiding Chair  
Ewald Moerke, Jr. Esq. - Public Arbitrator  
Robert F. O'Keef- Non-Public Arbitrator

Concurring Arbitrators:

\_\_\_\_\_  
William Ross, Esq.  
Public Arbitrator, Presiding Chair

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

\_\_\_\_\_  
Ewald Moerke, Jr. Esq.  
Public Arbitrator

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

\_\_\_\_\_  
Robert F. O'Keef  
Non-Public Arbitrator

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

*March 23, 2004*

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William Ross, Esq. - Public Arbitrator, Presiding Chair  
Ewald Moerke, Jr. Esq. - Public Arbitrator  
Robert F. O'Keef- Non-Public Arbitrator

Concurring Arbitrators:

William B. Ross

William Ross, Esq.  
Public Arbitrator, Presiding Chair

3/22/2004  
Signature Date

Ewald Moerke, Jr. Esq.  
Public Arbitrator

Signature Date

Robert F. O'Keef  
Non-Public Arbitrator

Signature Date

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Public Arbitrator, Presiding Chair

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Ewald Moerke, Jr. Esq.  
Public Arbitrator

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

R.F.O'Keef  
Robert F. O'Keef  
Non-Public Arbitrator

3/22/04  
Signature Date

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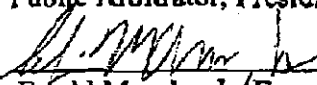
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Ewald Moerke, Jr. Esq. - Public Arbitrator  
Robert F. O'Keef- Non-Public Arbitrator

Concurring Arbitrators:

William Ross, Esq.  
Public Arbitrator, Presiding Chair

  
Ewald Moerke, Jr. Esq.  
Public Arbitrator

Robert F. O'Keef  
Non-Public Arbitrator

Signature Date

3-22-04

Signature Date

Signature Date