

AWARD
NASD Dispute Resolution

In the Matter of the Arbitration Between

Names of Claimants

Scott O. Sarasin and Andrea Sarasin

and

Case Number: 02-05903
Hearing Site: Southfield, Michigan

Names of Respondents

Morgan Stanley Dean Witter, Inc. and
Kevin Curry

NATURE OF DISPUTE

Customers v. Member Firm and Associated Person

REPRESENTATION OF PARTIES

Scott O. Sarasin and Andrea Sarasin ("Claimants") were represented by Joel H. Kaufman, Esq., Law Offices of Joel H. Kaufman, Farmington Hills, Michigan.

Morgan Stanley Dean Witter, Inc. ("MSDW") and Kevin Curry ("Curry") were represented by Mark R. Werder, Esq., Honigman, Miller, Schwartz & Cohen, LLP, Detroit, Michigan.

CASE INFORMATION

The Statement of Claim was filed on or about September 23, 2002. The Submission Agreement of Claimants Scott O. Sarasin and Andrea Sarasin was signed on or about September 18, 2002.

Statement of Answer was filed jointly by Respondents MSDW and Curry on or about December 18, 2002. The Submission Agreement of Respondent Kevin Curry was signed on or about November 9, 2002.

CASE SUMMARY

Claimants asserted causes of action including the following: violations of NASD Rules of Fair Practice, churning, breach of contract, negligence/misrepresentation, violation of the Michigan Consumer Protection Act, breach of fiduciary duty, violation of federal and state securities laws. The causes of action relate to Claimants' allegations of lack of diversification, aggressive stock trading and margin trading in tech stocks including Appnet, contrary to Claimants' instructions.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted affirmative defenses including the following: laches and/or any applicable statute of limitations, failure to state a cause of action, assumption of the risk, the equitable doctrines of waiver, estoppel ratification, and unclean hands, and any losses sustained by Claimants were the result, in whole or in part, of Claimants' own independent conduct, comparative negligence and/or deliberate choice.

RELIEF REQUESTED

Claimant requested an award out-of-pocket losses in the amount of \$252,296.55, plus additional damages of \$80,000.00, exemplary damages and attorney fees.

Respondents requested that the claims asserted against them be denied in their entirety and that they be awarded their costs and attorneys' fees, and that all reference to this claim be expunged from Respondent Curry's record.

OTHER ISSUES CONSIDERED & DECIDED

Respondent Morgan Stanley Dean Witter, Inc. did not file with the NASD Dispute Resolution a properly executed submission to arbitration but is required to submit to arbitration pursuant to Rule 10301 of 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 arbitration panel on all issues submitted.

The Panel allowed the parties to submit post-hearing briefs, which were filed on or about November 25, 2003.

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 original(s) remain on file with NASD Dispute Resolution ("NASD").

AWARD

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

- 1.) Claimant's Claims, each and all, are denied and dismissed with prejudice;
- 2.) Respondent Kevin Curry's request for expungement is denied and dismissed with prejudice;

- 3.) That other than Forum Fees which are specified below, the parties shall each bear their own costs and expenses incurred in this matter; and
- 4.) That any relief not specifically enumerated, including exemplary damages and attorney fees, is hereby denied with prejudice.

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 events giving rise to the dispute. In this matter, the member firm is Morgan Stanley Dean Witter, Inc.

Member surcharge	= \$1,700.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$2,750.00

Adjournment Fees

Adjournments requested during these proceedings:

August 20-22, 2003, adjournment by Respondents (waived by Panel) = \$1,125.00

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 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 x \$1,125.00	= \$1,125.00
Pre-hearing conference(s): Date	1 session
Four (4) Hearing sessions x \$1,125.00	= \$4,500.00
Hearing Dates:	November 4, 2003 2 sessions
	November 5, 2003 2 sessions
Total Forum Fees	= \$5,625.00

The Arbitration Panel has assessed \$2,812.50 of the forum fees jointly and severally to Scott O. Sarasin and Andrea Sarasin.

The Arbitration Panel has assessed \$2,812.50 of the forum fees jointly and severally to Morgan Stanley Dean Witter, Inc. and Kevin Curry.

Fee Summary

Claimants, Scott O. Sarasin and Andrea Sarasin, are jointly and severally liable for:

Initial Filing Fee	= \$ 300.00
Forum Fees	= \$2,812.50
Total Fees	= \$3,112.50
Less payments	= \$1,425.00
Balance Due NASD Dispute Resolution	= \$1,687.50

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

Member Fees	= \$5,200.00
Total Fees	= \$5,200.00
Less payments	= \$5,200.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondents, Morgan Stanley Dean Witter, Inc. and Kevin Curry, are jointly and severally liable for:

Forum Fees	= \$2,812.50
Total Fees	= \$2,812.50
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$2,812.50

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

ARBITRATION PANEL

Clare R. Goldfarb, Ph.D. - Public Arbitrator, Presiding Chair
Walter H. Clements, Esq. - Public Arbitrator
Bruce F. Coleman - Non-Public Arbitrator

Concurring Arbitrators:

/s/ Clare R. Goldfarb, Ph.D.
Clare R. Goldfarb, Ph.D.
Public Arbitrator, Presiding Chair

12/29/03
Signature Date

/s/ Walter H. Clements, Esq.
Walter H. Clements, Esq.
Public Arbitrator

12/29/03
Signature Date

/s/ Bruce F. Coleman
Bruce F. Coleman
Non-Public Arbitrator

12/29/03
Signature Date

12/29/03
Date of Service (For NASD office use only)

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Non-Public Arbitrator

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