

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

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In the Matter of the Arbitration Between:

Daniel I. Peck (Claimant) v. Morgan Stanley Dean Witter, Inc. and Adrienne Rowles (Respondents)

Case Number: 02-07587

Hearing Site: Boston, Massachusetts

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

**REPRESENTATION OF PARTIES**

Claimant Daniel I. Peck ("Peck") hereinafter referred to as "Claimant" appeared *pro se*.

Respondents Morgan Stanley Dean Witter, Inc. ("MSDW") and Adrienne Rowles ("Rowles") hereinafter collectively referred to as "Respondents": Timothy E. DiDomenico, Esq., Greenberg Traurig, New York, NY. Previously represented by: Rebecca Swenson, Esq., Morgan Stanley Law Division, Sarasota, FL.

**CASE INFORMATION**

Statement of Claim filed on or about: December 12, 2002.

Claimant signed the Uniform Submission Agreement: December 12, 2002.

Joint Motion to Dismiss, Answer and Defenses filed by Respondents on or about: March 4, 2003.

MSDW signed the Uniform Submission Agreement: March 3, 2003.

Rowles did not sign a Uniform Submission Agreement.

**CASE SUMMARY**

Claimant asserted the following causes of action: negligence; failure to supervise; omission of material facts; misrepresentation/non-disclosure; breach of contract; breach of fiduciary duty; and violation of state and federal securities laws. Claimant's claim involved shares of Intel.

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 compensatory damages in the amount of \$14,656.00; punitive damages in the amount of \$10,000.00; interest at the rate of 6% per annum compounded monthly from the date of the claim to the date of payment; plus costs, attorneys' fees; and

other case-related costs.

Respondents requested that all claims asserted by the Claimant be denied in their entirety and that Respondents be awarded the costs and fees incurred in defending this matter. Respondent Adrienne Rowles also requested that the panel enter an order directing expungement of this matter from her CRD records.

#### **OTHER ISSUES CONSIDERED AND DECIDED**

Rowles did not file with NASD Dispute Resolution a properly executed Uniform Submission Agreement but is required to submit to arbitration pursuant to the Code and, having answered the claim, and appeared and testified at the hearing, is bound by the determination of the Panel on all issues submitted.

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.

#### **AWARD**

After considering the pleadings, the testimony and evidence presented at the hearing, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. MSDW is solely liable for and shall pay to Claimant costs in the sum of \$96.00.
2. MSDW is solely liable for and shall pay to Claimant the sum of \$125.00, to reimburse Claimant for the filing fee previously paid to NASD Dispute Resolution.
3. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Adrienne Rowles' 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, Respondent Adrienne Rowles must obtain confirmation from a court of competent jurisdiction before CRD will execute the expungement directive.
4. Any and all relief not specifically addressed herein, including compensatory damages and punitive damages, is denied.

### **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 = \$125.00

#### **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. Accordingly, Morgan Stanley Dean Witter, Inc. is a party.

Member surcharge = \$425.00

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

The Panel has assessed forum fees for each session conducted. A 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:

Two (2) Pre-hearing sessions with a single arbitrator @ \$450.00 = \$ 900.00  
Pre-hearing conferences: June 9, 2003 1 session  
September 10, 2003 1 session

Two (2) Hearing sessions @ \$450.00 = \$ 900.00

Hearing Dates: October 30, 2003 2 sessions

Total Forum Fees = \$1,800.00

The Arbitrator has assessed \$1,800.00 of the forum fees against MSDW.

### **Fee Summary**

1. Claimant is solely liable for:

<u>Initial Filing Fee</u>	= \$ 125.00
<u>Total Fees</u>	= \$ 125.00
<u>Less payments</u>	= \$ 575.00
<u>Refund Due Claimant</u>	= \$ 450.00

*As stated in the "Award" section above, MSDW is solely liable for and shall reimburse Claimant for the \$125.00 filing fee.*

2. MSDW is solely liable for:

Member Fees	= \$ 425.00
Forum Fees	= \$1,800.00
Total Fees	= \$2,225.00
Less payments	= \$ 850.00
Balance Due NASD Dispute Resolution	= \$1,375.00

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

**ARBITRATION PANEL**

Mark J. Levinson, Esq.

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Public Arbitrator, Presiding Chair

**Concurring Arbitrators' Signature**

I, the undersigned arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument, which is my award.

  
Mark J. Levinson, Esq.  
Public Arbitrator, Presiding Chairperson

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Signature Date

December 4, 2003

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Date of Service (For NASD Dispute Resolution use only)