

**PACIFIC EXCHANGE, INC  
115 Sansome Street, 3<sup>rd</sup> Floor  
San Francisco, California 94104**

**In The Matter Of The Arbitration Between**

**Laszlos,**

**Claimant,**

**v.**

**Morgan Stanley et al**

**Respondent**

**PCX CASE # 02-S006**

**DECISION**

The undersigned Arbitrators, having read and considered the Claim submitted by Claimants and the Answers of Respondents, and having considered evidence presented at hearings on March 23-25 and August 24-26, hereby render the following Decision pursuant to Rules 12.2 and 12.29(a) of the Rules of the Board of Governors of the Pacific Exchange.

**REPRESENTATION OF PARTIES**

**Of Claimants:     Brian Zagon, Resolution Law Group**

**Of Respondent Morgan Stanley:     Eric Wallis, Reed Smith Crosby Heafey**

**Of Respondent Antony Gordon:     Rene Kern, Kern & Gonzalez**

**SUMMARY OF FACTS**

The facts of the case as presented in the Statement of Claim are that Claimant Andrew Laszlo had an interest in restricted shares comprising virtually all of Claimants' net worth; that in late 1999, Claimants asked Respondent Gordon, who was then employed by Respondent Morgan Stanley, to advise them regarding what strategies were available to protect the value of the restricted shares until they could be sold and their holdings diversified; that Respondent Gordon advised Claimants that nothing could be done by any brokerage firm to protect the value of Claimants shares; that Respondent Gordon failed to advise Claimants of synthetic derivatives/hedging strategies to protect the value of the restricted stock; that Respondent Gordon's failure to provide such advice to Claimants was negligent and breached a fiduciary duty he owed to them; that Respondent Morgan Stanley is liable under the theory of Respondent Superior; and that Claimants suffered financial losses. The Respondents' answers deny the allegations and allege as

affirmative defenses that the claims are barred by the statute of limitations, Claimants' failure to mitigate their damages, waiver, ratification, estoppel, laches, unclean hands, assumption of the risk, their lack of standing, failure to state a claim upon which relief can be granted, failure to exercise due diligence, failure to timely disaffirm the transactions and acts of Respondents; that any damages were caused by Claimants acts and omissions including negligence; and that any losses were not caused by Respondents.

#### ISSUE PRESENTED

The issue is whether Respondents are liable for the loss in the value of the restricted stock that was incurred by Claimants after March 2000 because Claimants did not have the benefit of any implemented strategy to protect the value of Claimants' restricted stock until it could be sold entirely.

#### RELIEF REQUESTED

Claimants seek financial damages from Respondents.

#### FINDINGS AND DECISION

After considering the arguments and evidence from Claimants and Respondents in this matter, the undersigned Arbitrators make the final determination and decision that Claimants failed to meet their burden of showing that a strategy existed that reasonably could have been implemented to protect the value of Claimants' restricted stock and, therefore, the Panel denies Claimants' Claim.

Each party is to bear its own filing fees, hearing session deposit(s), and cost of this arbitration. The Claimant shall bear one third of the forum fees, Respondent Gordon shall bear one third of such fees and Respondent Morgan Stanley shall bear the balance of the forum fees

With regard to Mr. Gordon, the Panel refers this matter to a regulatory organization for disciplinary investigation of NASD rule violations or violation of federal securities laws.

Dated: September 23, 2004

  
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Mary Margaret Bush

Dated: September , 2004

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Frank Weaver

Dated: September , 2004

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Gary Kahn

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Dated: September 23, 2001

Dated: September 27, 2001

Dated: September 28, 2001

  
Mary Margaret Bush  
  
Frank Weaver

  
Gary Kahn

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Dated: September 23, 2004

  
Mary Margaret Bush

Dated: September 23, 2004

  
Frank Weaver

Dated: September 23, 2004

  
Cary M. Kahn