

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

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In the Matter of the Arbitration Between

Name of Claimant

Ronald Dombrowski

and

Case Number: 03-00134  
Hearing Site: Southfield, Michigan

Names of Respondents

Morgan Stanley Dean Witter, Inc. and  
Craig Balter

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**NATURE OF DISPUTE**

Customer v. Member and Associated Person

**REPRESENTATION OF PARTIES**

Ronald Dombrowski ("Claimant") was represented by Laurence S. Schultz, Esq., Driggers Schultz & Herbst, Troy, Michigan.

Morgan Stanley Dean Witter, Inc. ("MSDW") and Craig Balter ("Balter") , hereinafter referred to as "Respondents," were represented by Mauricio Beugelmans, Esq., Morgan Stanley DW, Inc., San Francisco, California.

**CASE INFORMATION**

The Statement of Claim was filed on or about January 3, 2003. The Submission Agreement of Claimant Ronald Dombrowski was signed on or about January 1, 2003.

Statement of Answer was filed jointly by Respondents MSDW and Balter on or about March 10, 2003. The Submission Agreement of Respondent Morgan Stanley Dean Witter, Inc. was signed on or about March 10, 2003. The Submission Agreement of Respondent Craig Balter was signed on or about March 6, 2003.

**CASE SUMMARY**

Claimant asserted the following causes of action: breach of fiduciary duty; misrepresentations, omissions and deceptive devices; breach of contract; violation of NASD and NYSE Rules; and Respondeat Superior. The causes of action related to the Claimant's allegations that Respondents improperly concentrated Claimant's general account and IRA account in equities, and in particular, tech stocks. Investments at issue included Amazon Com Inc, America Online Inc., Applera CP-Cerera Gernomics GP, Ariba, Inc, At Home Corp., Broadvision, CBS Corp, Check Point Software Tech Ltd, Cisco Systems, Inc., and Copper Mountain.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted affirmative defenses including the following: the decline in value of Claimant's investments made through MSDW was caused in whole or in part by market events outside the control of Respondents; Claimant ordered, approved, and participated in or ratified, the acts and transactions in dispute and is accordingly barred from any recovery under the doctrines of waiver, estoppel, and ratification; and Claimant's losses, if any, were proximately caused by his own decisions and conduct, not by the action or inaction on the part of Respondents.

### **RELIEF REQUESTED**

Claimant requested an award in the amount of \$100,000, plus lost opportunity damages, refund of commissions, punitive/exemplary damages (including damages for emotional distress and severe mental anguish), costs, pre-judgment interest, attorneys' fees and such other relief as may be awarded.

Respondents requested that the claims asserted against them be dismissed in their entirety, that they be awarded their costs and attorneys' fees, that Respondent Balter's CRD record be expunged of all references to this matter, and any such other relief as may be just, proper, and provided by law.

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

At the hearing, Respondents moved for discovery sanctions. The Panel denied the Motion at the hearing. Also at the hearing, Claimant moved for reconsideration of the Panel's ruling on production and requested a less redacted commission report. The Panel granted the Motion and Respondents provided the report at hearing.

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, 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.) Claimant's claims, each and all, are denied and dismissed with prejudice;
- 2.) That other than Forum Fees which are specified below, the parties shall each bear their own costs and expenses incurred in this matter;
- 3.) That any relief not specifically enumerated, including punitive/exemplary damages, expungement 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 (fee waived) = \$ 225.00

### 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 = \$ 1,100.00  
Pre-hearing process fee = \$ 750.00  
Hearing process fee = \$ 2,450.00

### 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 a single arbitrator x \$450.00 = \$ 450.00  
Pre-hearing conference: January 13, 2004 1 session

One (1) Pre-hearing session with Panel x \$750.00 = \$ 750.00  
Pre-hearing conference: July 7, 2003 1 session

Six (6) Hearing sessions x \$750.00 = \$ 4,500.00  
Hearing Dates: March 2, 2004 2 sessions  
March 3, 2004 2 sessions  
March 4, 2004 2 sessions

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Total Forum Fees = \$ 5,700.00

The Arbitration Panel has assessed \$5,700.00 of the forum fees to Morgan Stanley Dean Witter, Inc.

**Fee Summary**

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

Member Fees	= \$ 3,550.00
Forum Fees	= \$ 5,700.00
Total Fees	= \$ 9,250.00
Less payments	= \$ 5,250.00
Balance Due NASD Dispute Resolution	= \$ 4,000.00

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

**ARBITRATION PANEL**

Matthew W. Schlegel, Esq. - Public Arbitrator, Presiding Chair  
Patrick R. Sughrue, Esq. - Public Arbitrator  
Gary C. Peters, Esq. - Non-Public Arbitrator

**Concurring Arbitrators:**

/s/ Matthew W. Schlegel, Esq.  
Matthew W. Schlegel, Esq.  
Public Arbitrator, Presiding Chair

03/09/04  
Signature Date

/s/ Patrick R. Sughrue, Esq.  
Patrick R. Sughrue, Esq.  
Public Arbitrator

03/08/04  
Signature Date

/s/ Gary C. Peters, Esq.  
Gary C. Peters, Esq.  
Non-Public Arbitrator

03/08/04  
Signature Date

03/09/04  
Date of Service (For NASD office use only)

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Public Arbitrator, Presiding Chair

Patrick R. Sughrue, Esq.  
Public Arbitrator

Gary C. Peters, Esq.  
Non-Public Arbitrator

Signature Date

3-8-04

Signature Date

Signature Date

Date of Service (For NASD office use only)

03/08/04

NASD Dispute Resolution  
Arbitration No. 03-00194  
Award Page 4 of 4

### Fee Summary

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

Member Fees	= \$ 3,550.00
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Arbitration No. 03-00134  
Award Page 1 of 4

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