

**STIPULATED AWARD
NASD Dispute Resolution**

In the Matter of the Arbitration Between

Names of Claimants

Benjamin Thomas McElroy Jr., individually,
as JTEN the McElroy Family Versaille Ltd. Partnership
and as Trustee for the McElroy Family Irrevocable
Insurance Trust U/A dated 7/14/95 and
Laura McElroy, individually and as JTEN
The McElroy Family Versaille Ltd. Partnership

and

Case Number: 03-02239
Hearing Site: Dallas, Texas

Names of Respondents

Morgan Stanley Dean Witter, Inc., and
John E. Van Amburgh

NATURE OF CASE

Customers v. Member and Associated Person

REPRESENTATION OF PARTIES

Benjamin Thomas McElroy Jr., individually and as JTEN The McElroy Family Versaille Ltd. Partnership and as Trustee for the McElroy Family Irrevocable Insurance Trust U/A dated 7/14/95 and Laura McElroy, individually and as JTEN The McElroy Family Versaille Ltd. Partnership ("Claimants") were represented by N. Henry Simpson, Simpson Woolley McConachie, L.L.P., Dallas, Texas.

Morgan Stanley Dean Witter, Inc., ("Morgan Stanley") and John E. Van Amburgh, ("Van Amburgh"), hereinafter, collectively referred to as "Respondents," were represented by Jon A. Jacobson, Esq., Greenberg Traurig, L.L.P., West Palm Beach, Florida.

CASE INFORMATION

The Statement of Claim was filed on or about March 27, 2003. The Submission Agreement of Claimants was signed on or about March 24, 2003.

Respondents Morgan Stanley Dean and Van Amburgh jointly filed a Statement of Answer on or about June 23, 2003.

The Submission Agreement of Respondent Morgan Stanley was signed on or about March 22, 2003.

The Submission Agreement of Respondent Van Amburgh was signed on or about April 19, 2004.

CASE SUMMARY

Claimants asserted the following causes of action: failure to supervise, negligence, unauthorized trading, suitability, misrepresentations, churning, omission of facts, breach of contract and breach of fiduciary duty. The causes of action related to Claimants' allegations that Respondents wrongfully recommended and effectuated the purchase of various unspecified securities.

Unless specifically admitted in their Answer, Respondents Morgan Stanley, and Van Amburgh denied the allegations made in the Statement of Claim and asserted various affirmative defenses, including the following:

1. Claimants' claims failed to state a cause of action upon which relief can be granted.
2. Claimants were fully advised of, and understood the nature of, the purchased in their accounts.
3. Claimants are precluded and estopped from any recovery in this action.
4. Claimants' acts constitute a ratification and waiver of any alleged wrongdoing by Respondents.
5. Claimants are barred from any recovery in this action under the doctrines of waiver, estoppel and ratification.
6. Claimants, by their conduct, waived any and all claims they may have had against Respondents.
7. Claimants did not rely to their detriment on any act, statement, or omission by Respondents.
8. Claimants' losses, if any, were proximately caused by their own decisions, conduct, and/or negligence, not by any action or inaction by Respondents.
9. Claimants' claims are barred, in whole or in proportion to percentage of their negligence, which contributed to their alleged losses.
10. Claimants failed to mitigate their alleged damages.
11. Claimants' claims are barred as a result of their failure to exercise due diligence.
12. Claimants' losses were caused in whole or in part by the general decline in the investment markets, the economy, and/or other events outside the control of Respondents.
13. Claimants voluntarily assumed the risks.
14. Claimants' claims are barred by the applicable statutes of limitations, statutes of repose, and/or laches.
15. Claimants are not entitled to attorneys' fees or to punitive damages.
16. Respondents acted at all times in good faith and exercised reasonable

diligence.

RELIEF REQUESTED

Claimants requested an award of approximately \$1,734,368.00 in compensatory damages, \$5,100,000.00 in punitive and exemplary damages, plus interests, costs, attorneys' fees and any other relief the panel deemed appropriate.

Respondents requested that the claims asserted against them be dismissed with prejudice and that they be awarded reimbursement of all legal fees, costs and expenses. Respondents also requested the expungement of all references to this arbitration from Respondent Van Amburgh's permanent registration records maintained by the NASD Central Registration Depository (CRD).

OTHER ISSUES CONSIDERED & DECIDED

This case settled on the second day of hearing. Claimants and Respondents Morgan Stanley Dean Witter, Inc., and John E. Van Amburgh have executed a Settlement Agreement and Release.

This Stipulated Award was prepared, in part, based on a proposed award document submitted by Respondents Morgan Stanley Dean Witter, Inc., and John Van Amburgh.

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 parties' submissions and representations, but without making any findings of fact or conclusions of law, the undersigned arbitrators order as follows:

- 1.) Claimants' claims against Respondents Morgan Stanley Dean Witter, Inc., and John Van Amburgh are hereby dismissed in their entirety with prejudice pursuant to the parties' Settlement Agreement;
- 2.) The Panel recommends the expungement of all references to the above-captioned arbitration from Respondent John E. Van Amburgh's registration's 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 John E. Van Amburgh must obtain confirmation from a court of competent jurisdiction before the CRD will execute the

expungement directive;

3.) Other than Forum Fees, which are specified below, the parties shall each bear their own costs and expenses incurred in this matter, and

4.) Any relief not specifically enumerated, including punitive and 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	= \$ 600.00
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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	= \$3,350.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$5,500.00

Adjournment Fees

Adjournments requested during these proceedings:

May 10 – May 14, 2004, adjournment jointly requested by Claimants and Respondents. Adjournment Fee	= \$1,200.00
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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:

One (1) Pre-hearing session with the Panel x \$1,200.00	= \$1,200.00
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Pre-hearing conference:	December 10, 2003	1 session	
One (1) Pre-hearing session with a single arbitrator x	\$450.00		= \$ 450.00
Pre-hearing conference:	April 19, 2004	1 session	
Four (4) Regular Hearing sessions with the Panel x	\$1,200.00		=\$4,800.00
Regular Hearing Conferences:	May 24, 2004	2 sessions	
	May 25, 2004	2 sessions	
Total Forum Fees			=\$6,450.00

The Arbitration Panel has assessed \$3,225.00 of the forum fees jointly and severally to Claimants Benjamin Thomas McElroy Jr., individually and as JT TEN The McElroy Family Versaille Ltd. Partnership and as Trustee for the McElroy Family Irrevocable Insurance Trust U/A dated 7/14/95 and Laura McElroy, individually and as JT TEN The McElroy Family Versaille Ltd. Partnership

The Arbitration Panel has assessed \$3,225.00 of the forum fees jointly and severally to Respondents Morgan Stanley Dean Witter, Inc., and John Van Amburgh

Fee Summary

Claimants Benjamin Thomas McElroy Jr., individually and as JT TEN The McElroy Family Versaille Ltd. Partnership and as Trustee for the McElroy Family Irrevocable Insurance Trust U/A dated 7/14/95 and Laura McElroy, individually and as JT TEN The McElroy Family Versaille Ltd. Partnership are jointly and severally liable for:

Initial Filing Fee	= \$ 600.00
Adjournment Fee	= \$ 600.00
Forum Fees	= \$3,225.00
Total Fees	= \$4,425.00
Less payments	= \$2,400.00
Balance Due Dispute Resolution	= \$2,025.00

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

Member Fees	= \$9,600.00
Less payments	= \$9,600.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondents Morgan Stanley Dean Witter, Inc., and John Van Amburgh are jointly and severally liable for:

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Forum Fees	= \$3,225.00
Adjournment Fees	= \$ 600.00
Total Fees	= \$3,825.00
Less payments	= \$ 600.00
Balance Due NASD Dispute Resolution	= \$3,225.00

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

ARBITRATION PANEL

Philip I. McConnell, Esq., - Public Arbitrator, Presiding Chairperson
James L. Goble - Public Arbitrator
Scott O. Fertig - Non-Public Arbitrator

Concurring Arbitrators:

Philip I. McConnell
Philip I. McConnell, Esq.
Public Arbitrator, Presiding Chairperson

9-28-05
Signature Date

James L. Goble
Public Arbitrator

Signature Date

Scott O. Fertig
Non-Public Arbitrator

Signature Date

10/27/05
Date of Service (For NASD office use only)

NASD Dispute Resolution
Arbitration No. 03-02239
Stipulated Award Page 6 of 6

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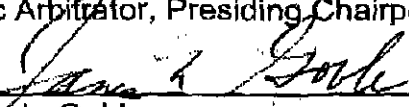
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James L. Goble - Public Arbitrator
Scott O. Fertig - Non-Public Arbitrator

Concurring Arbitrators:

Philip I. McConnell, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date


James L. Goble
Public Arbitrator

10-26-05
Signature Date

Scott O. Fertig
Non-Public Arbitrator

Signature Date

10/27/05 
Date of Service (For NASD office use only)

NASD Dispute Resolution
Arbitration No. 09-02239
Stipulated Award Page 6 of 6

Forum Fees	= \$3,225.00
Adjournment Fees	= \$ 600.00
Total Fees	= \$3,825.00
Less payments	= \$ 600.00
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James L. Goble
Public Arbitrator

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