

**STIPULATED AWARD
NASD Dispute Resolution**

In the Matter of the Arbitration Between:

Claimants

Larry and Robert Kolodey

and

Case Number: 03-03315
Hearing Site: Detroit, Michigan

Respondents

Morgan Stanley DW, Inc., and
Thomas Gerald Tarvis

NATURE OF CASE

Customers v. Member and Associated Person

REPRESENTATION OF PARTIES

Larry and Robert Kolodey ("Claimants") were represented by Robert Bertsch, Esq., Bertsch & Associates PC, Port Washington, New York.

Morgan Stanley DW, Inc. ("Morgan Stanley") and Thomas Gerald Tarvis ("Tarvis"), hereinafter referred to as "Respondents," were represented by Bruce E. Lewitas, Esq., Lewitas & Associates, P.C., Chicago, Illinois.

CASE INFORMATION

The Statement of Claim was filed on or about May 6, 2003. The Submission Agreement of Claimants was signed on or about March 21, 2003.

The Statement of Answer and Motion to Dismiss was jointly filed by Respondents on or about July 29, 2003.

Claimants filed a Reply to Respondents' Motion to Dismiss on or about June 21, 2004. Respondents Morgan Stanley and Tarvis filed a Reply in Support of Motion to Dismiss on or about July 19, 2004. Claimants filed a Response to Respondents' Reply on or about July 20, 2004.

CASE SUMMARY

Claimants asserted the following causes of action: negligence, violations of Section 10(b)(5) and Section 20 of the Securities Exchange Act, and unsuitability. The causes of

action related to Claimants' allegations of unauthorized trades in securities including the following: Advanced Fibre Communications, Cholestech Corporation, Denamerica Corporation, and Electric Data Systems.

Unless specifically admitted in their Answer, Morgan Stanley and Tarvis denied the allegations made in the Statement of Claim and asserted affirmative defenses including the following: Claimants authorized, approved and ratified the transactions in question; Claimants knew and assumed the risks with respect to the transactions; and the claims are barred by the theories of contributory and/or comparative negligence.

RELIEF REQUESTED

Claimants requested an award in the amount of:

Actual/Compensatory Damages	\$1,000,000.00
Interest	Unspecified
Attorneys' Fees	Unspecified
Other Costs	Unspecified
Other Monetary Relief	Unspecified

Respondents requested that the claims asserted against them be dismissed and that they be awarded their costs and attorneys' fees. Respondents further requested that this matter be expunged from Tarvis' CRD record.

OTHER ISSUES CONSIDERED & DECIDED

Morgan Stanley and Tarvis did not file with NASD Dispute Resolution properly executed submissions to arbitration but are required to submit to arbitration pursuant to Rule 10301 of the NASD Code of Arbitration Procedure (the "Code") and having answered the claim, and appeared through counsel at the pre-hearing conferences are bound by the determination of the arbitration panel on all issues submitted.

The Panel denied Respondents' Motion to Dismiss on or about August 6, 2004.

The parties to this action agree to and support an Award by the panel expunging Claimant's Complaint and this arbitration from Thomas Tarvis' CRD records. 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.) Claimant's claims, having been withdrawn, are dismissed with prejudice;
- 2.) The panel recommends the expungement of all reference to the above captioned arbitration from Respondent Thomas Gerald Tarvis's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 99-09, Respondent Thomas Gerald Tarvis 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 damages and attorneys' fees, is hereby dismissed with prejudice.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

Claimants were granted a fee waiver of \$375 for the filing fee and \$1,200 for the hearing session deposit.

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 DW, Inc.

Member surcharge	= \$ 2,250.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$ 4,000.00

Adjournment Fees

Adjournments requested during these proceedings:

November 3-5, 2004, adjournment requested by Claimants = \$ 1,200.00

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 arbitrators, including a pre-hearing conference with the arbitrators, that lasts four (4) hours or less. Fees associated with these proceedings are:

Three (3) Pre-hearing sessions with Panel x \$1,200.00	= \$ 3,600.00
Pre-hearing conferences:	
February 3, 2004	1 session
June 3, 2004	1 session
August 6, 2004	1 session
Total Forum Fees	= \$ 3,600.00

The Arbitration Panel has assessed \$1,800.00 of the forum fees jointly and severally to Larry and Robert Kolodey.

The Arbitration Panel has assessed \$1,800.00 of the forum fees to Morgan Stanley.

FEE SUMMARY

Claimants, Larry and Robert Kolodey, are jointly and severally liable for:

Adjournment Fees	= \$ 1,200.00
Forum Fees	= \$ 1,800.00
Total Fees	= \$ 3,000.00
<u>Less payments</u>	<u>= \$ 0.00</u>
Balance Due NASD Dispute Resolution	= \$ 3,000.00

Respondent, Morgan Stanley is liable for:

Forum Fees	= \$ 1,800.00
Member Fees	= \$ 7,000.00
Total Fees	= \$ 8,800.00
<u>Less payments</u>	<u>= \$ 7,000.00</u>
Balance Due NASD Dispute Resolution	= \$ 1,800.00

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

ARBITRATION PANEL

Sandra J. Budnick, Esq.- Public Arbitrator, Presiding Chair
R. Edward Lawton - Public Arbitrator
William C. Kubicz - Non-Public Arbitrator

Concurring Arbitrators:

/s/ Sandra J. Budnick, Esq.
Sandra J. Budnick, Esq.
Public Arbitrator, Presiding Chair

02/01/06
Signature Date

/s/ R. Edward Lawton
R. Edward Lawton
Public Arbitrator

02/07/06
Signature Date

/s/ William C. Kubicz
William C. Kubicz
Non-Public Arbitrator

02/01/06
Signature Date

02/15/06
Date of Service (For NASD office use only)

FEB 11 2005

ARBITRATION PANEL

Sandra J. Budnick, Esq.- Public Arbitrator, Presiding Chair
R. Edward Lawton - Public Arbitrator
William C. Kubicz - Non-Public Arbitrator

Concurring Arbitrators:

Sandra J. Budnick, Esq.
Public Arbitrator, Presiding Chair

Signature Date

R. Edward Lawton

R. Edward Lawton

02-07-06

Signature Date

R. Edward Lawton
Public Arbitrator

Signature Date

William C. Kubicz
Non-Public Arbitrator

Signature Date

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R. Edward Lawton - Public Arbitrator
William C. Kubicz - Non-Public Arbitrator

Concurring Arbitrators;

Sandra J. Budnick, Esq.
Sandra J. Budnick, Esq.
Public Arbitrator, Presiding Chair

2-1-06
Signature Date

R. Edward Lawton
Public Arbitrator

Signature Date

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Public Arbitrator

Signature Date



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