

Stipulated Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Celeste Pennachio and Frances Scarpaci (Claimants) vs. Morgan Stanley Dean Witter, Inc., and
Ira Walker (Respondents) 04-00748

and

Anthony M. Scarpaci, Jr. (Claimant) vs. Morgan Stanley Dean Witter, Inc., and Ira Walker
(Respondents) 04-04147

and

Robert Scarpaci and Angela Scarpaci, Robert Scarpaci, IRA, Angela Scarpaci, IRA (Claimants)
vs. Morgan Stanley Dean Witter Inc., and Ira A. Walker (Respondents) 04-04148

Case Number: 04-00748 (Consolidated with 04-04147 and 04-04148)

Hearing Site: New York, New York

Nature of the Dispute: Customers vs. Member and Associated Person (04-00748)

Nature of the Dispute: Customer vs. Member and Associated Person (04-04147)

Nature of the Dispute: Customers vs. Member and Associated Person (04-04148)

REPRESENTATION OF PARTIES

04-00748

Claimants Celeste Pennachio ("Pennachio") and Frances Scarpaci ("F. Scarpaci") hereinafter collectively referred to as "Claimants": Barry R. Lax, Esq., The Lax Law Firm, New York, NY.

Respondent Morgan Stanley Dean Witter, Inc. ("Morgan Stanley"): Jason M. Fedo, Esq.,
Greenberg Traurig, P.A., West Palm Beach, FL.

Respondent Ira A. Walker ("Walker"): David E. Robbins, Esq., Kaufmann, Feiner, Yamin,
Gildin & Robbins, LLP, New York, NY.

04-04147

Claimant Anthony M. Scarpaci, Jr. ("A. Scarpaci") hereinafter referred to as "Claimant": Barry
R. Lax, Esq., The Lax Law Firm, New York, NY.

Respondent Morgan Stanley Dean Witter, Inc. ("Morgan Stanley"): Bradford D. Kaufman, Esq.,

Greenberg Traurig, P.A. West Palm Beach, FL.

Respondent Ira Walker ("Walker"): David E. Robbins, Esq., Kaufmann, Feiner, Yamin, Gildin & Robbins LLP, New York, NY.

04-04148

Claimants Robert Scarpaci ("R. Scarpaci"), Angela Scarpaci ("A. Scarpaci"), Robert Scarpaci, IRA ("R. Scarpaci, IRA"), and Angela Scarpaci, IRA ("A. Scarpaci, IRA"): Barry R. Lax, Esq., The Lax Law Firm, New York, NY.

Respondent Morgan Stanley Dean Witter, Inc. ("Morgan Stanley"): Bradford D. Kaufman, Esq., Greenberg Traurig, P.A. West Palm Beach, FL.

Respondent Ira A. Walker ("Walker"): David E. Robbins, Esq., Kaufmann, Feiner, Yamin, Gildin & Robbins LLP, New York, NY.

CASE INFORMATION

04-00748

Statement of Claim filed on or about: February 4, 2004.

Pennachio signed the Uniform Submission Agreement: January 27, 2004.

F. Scarpaci signed the Uniform Submission Agreement: January 27, 2004.

Statement of Answer filed by Morgan Stanley on or about: April 30, 2004.

Morgan Stanley signed the Uniform Submission Agreement: July 14, 2004.

Statement of Answer filed by Walker on or about: July 8, 2004.

Walker signed the Uniform Submission Agreement on or about: July 19, 2004.

04-04147

Statement of Claim filed on or about: June 9, 2004.

A. Scarpaci signed the Uniform Submission Agreement: April 20, 2004.

Statement of Answer and Motion to Consolidate filed by Morgan Stanley on or about: August 9, 2004.

Morgan Stanley did not sign the Uniform Submission Agreement.

Statement of Answer and Motion to Consolidate filed by Walker on or about: August 2, 2004.

Walker signed the Uniform Submission Agreement on or about: July 14, 2004.

04-04148

Statement of Claim filed on or about: May 20, 2004.

R. Scarpaci signed the Uniform Submission Agreement: May 20, 2004.

A. Scarpaci signed the Uniform Submission Agreement: May 20, 2004.

R. Scarpaci, IRA signed the Uniform Submission Agreement: May 20, 2004.

A. Scarpaci, IRA signed the Uniform Submission Agreement: May 20, 2004.

Statement of Answer and Motion to Consolidate filed by Morgan Stanley on or about: August 4, 2004.

Morgan Stanley did not sign the Uniform Submission Agreement.

Statement of Answer and Motion to Consolidate filed by Walker on or about: August 2, 2004.

Walker signed the Uniform Submission Agreement on or about: July 14, 2004.

CASE SUMMARY

04-00748

Claimants asserted the following causes of action: breach of fiduciary duty; common law fraud; breach of contract; unauthorized trading; non-disclosure; failure to supervise; negligence; respondeat superior, and securities fraud. The causes of action relate to Morgan Stanley proprietary mutual funds.

Unless specifically admitted in its Answer, Morgan Stanley denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

Unless specifically admitted in his Answer, Walker denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

04-04147

Claimant asserted the following causes of action: breach of contract; breach of fiduciary duty; securities fraud; common law fraud; failure to supervise; control person liability; respondeat superior; unauthorized trading; suitability; negligence; misrepresentation; and omission of facts. The causes of action relate to Morgan Stanley proprietary mutual funds.

Unless specifically admitted in its Answer, Morgan Stanley denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

Unless specifically admitted in his Answer, Walker denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

04-04148

R Scarpaci, A. Scarpaci, R. Scarpaci, IRA and A. Scarpaci, IRA asserted the following causes of action: breach of contract; breach of fiduciary duty; common law fraud; unauthorized trading; suitability; misrepresentation; failure to supervise; omission of facts; negligence; and respondeat superior. The causes of action relate to Morgan Stanley mutual funds.

Unless specifically admitted in its Answer, Morgan Stanley denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

Unless specifically admitted in his Answer, Walker denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

04-00748

Claimants requested unspecified compensatory damages; punitive damages; interest; expenses including attorneys' fees and disbursements, and such other relief as the arbitrators deem just and proper.

Morgan Stanley requested the dismissal of the Statement of Claim.

Walker requested the dismissal of the Statement of Claim and the expungement of this case from his CRD record.

04-04147

Claimant requested unspecified compensatory damages plus commissions; punitive damages; interest; expenses including attorneys' fees and disbursements, and such other relief as the arbitrators deem just and proper.

Morgan Stanley requested the dismissal of the Statement of Claim; consolidation of case number 04-04147 with case numbers 04-00748 and 04-04148.

Walker requested the dismissal of the Statement of Claim; expungement of the claim from his CRD record; consolidation of case number 04-04147 with case numbers 04-00748 and 04-04148; attorneys' fees; costs, and expenses incurred in defending this case.

04-04148

R Scarpaci, A. Scarpaci, R. Scarpaci, IRA and A. Scarpaci, IRA requested unspecified compensatory damages plus commissions; punitive damages; interest; expenses including attorneys' fees and disbursements, and such other relief as the arbitrators deem just and proper.

Morgan Stanley requested the dismissal of the Statement of Claim; consolidation of case number 04-04148 with case numbers 04-00748 and 04-04147, and attorneys' fees.

Walker requested the dismissal of the Statement of Claim; consolidation of case number 04-04148 with case numbers 04-00748 and 04-04147; expungement of the claim from his CRD record; and an award of attorneys' fees, costs and expenses incurred in defending the arbitration.

OTHER ISSUES CONSIDERED AND DECIDED

In case numbers 04-04147 and 04-04148, Morgan Stanley did not file with NASD Dispute Resolution properly executed Uniform Submission Agreements but is required to submit to arbitration pursuant to the Code, and having answered the claim, is bound by the determination of the Panel on all issues submitted.

By letter dated December 2, 2004, NASD Dispute Resolution notified the parties that the Director of Arbitration granted Walker's Motion to Consolidate case number 04-04147 with 04-04148.

By letters dated January 19, 2006, Claimants advised NASD-DR of the withdrawal of their claims against Walker in case numbers 04-04148 and 04-00748.

On January 19, 2006, the parties submitted a Joint Stipulated Motion to Consolidate NASD-DR case number 04-00748 with NASD-DR case numbers 04-04147 and 04-04148.

On January 31, 2006, the Panel granted the parties' Motion to Consolidate and consolidated case numbers 04-04147 and 04-04148 with 04-00748.

By letter dated February 23, 2006, Morgan Stanley advised NASD-DR of the following:

- (a) Settlement of Claimants' claim in NASD-DR case number 04-00748 with Morgan Stanley.
- (b) Submission by Claimants, Morgan Stanley and Walker of a Stipulated Motion, for the Expungement of these claims, from Walker's CRD records.
- (c) Agreement by Morgan Stanley to pay and be responsible for all NASD-DR forum fees, for NASD-DR case numbers 04-00748, 04-04147 and 04-04148 except the initial filing fees and any other payments already made by Claimants.

The parties agreed that the award in this matter may be executed in counterpart copies or that a handwritten, signed Award may be entered.

AWARD

The parties entered into an agreement, to present to the Panel, a Stipulated Award. Now in lieu of a hearing, and upon motion of the parties for an entry of an award, the written stipulation thereto, the Panel grants the motion and enters this award granting the following relief:

1. The Statement of Claims in NASD-DR case numbers 04-00748, 04-04147 and 04-04148 are dismissed in their entirety with prejudice.
2. In case 04-00748, the Panel recommends the expungement of all reference to the above captioned arbitration from Ira Walker's 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, Ira Walker must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.
3. In case 04-04147, the Panel recommends the expungement of all reference to the above captioned arbitrations from Ira Walker's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notices to Members 04-16, Ira Walker must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

Unless specifically waived in writing by the NASD, parties seeking judicial confirmation of an arbitration award containing expungement relief must name NASD as an additional party and serve NASD with all appropriate documents.

Pursuant to Rule 2130, the arbitration panel has made the following affirmative findings of fact:

The registered person was not involved in the alleged investment-related sales practice violation, forgery, theft, misappropriation, or conversion of funds.

4. In 04-04148, the Panel recommends the expungement of all reference to the above captioned arbitrations from Ira A. Walker's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notices to Members 04-16, Ira A. Walker must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

Unless specifically waived in writing by the NASD, parties seeking judicial confirmation of an arbitration award containing expungement relief must name NASD as an additional party and serve NASD with all appropriate documents.

Pursuant to Rule 2130, the arbitration panel has made the following affirmative findings of fact:

The registered person was not involved in the alleged investment-related sales practice violation, forgery, theft, misappropriation, or conversion of funds.

5. Morgan Stanley is assessed and shall be liable to pay all forum fees in NASD-DR case numbers 04-00748, 04-04147 and 04-04148.
6. Each party shall bear its own costs and expenses including attorneys' fees associated with NASD-DR case numbers 04-00748, 04-04147 and 04-04148.
7. Any and all relief not specifically addressed herein, including 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 (04-00748)	= \$	250.00
Initial claim filing fee (04-04147)	= \$	250.00
Initial claim filing fee (04-04148)	= \$	250.00

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.

04-00748

Member surcharge	= \$ 1,500.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$ 2,200.00

04-04147

Member surcharge	= \$ 1,500.00
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04-04148

Member surcharge	= \$ 1,500.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$ 2,200.00

Forum Fees and Assessments

The Panel has assessed forum fees for each session conducted or each decision rendered on a discovery-related motion on the papers. 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:

04-00748

Two (2) Decisions on discovery-related motions on the papers with One arbitrator @ \$200.00	= \$ 400.00
Claimants submitted two discovery-related motions	

Four (4) Pre-hearing sessions with Panel @ \$1,000.00 per session	= \$ 4,000.00
Pre-hearing conferences:	
October 14, 2004	1 session
October 25, 2004	1 session
June 10, 2005	1 session
October 18, 2005	1 session

Total Forum Fees	= \$ 4,400.00
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Pursuant to the parties' agreement, the Panel has assessed the amount of \$4,400.00 in forum fees against Morgan Stanley.

04-04148

One (1) Decision on discovery-related motion on the papers With One arbitrator @ \$200.00	= \$ 200.00
Claimants submitted one discovery-related motion	

Five (5) Pre-hearing sessions with Panel @ \$1,000.00 per session	= \$ 5,000.00
Pre-hearing conferences:	
March 4, 2005	1 session
April 1, 2005	1 session
November 18, 2005	1 session

December 14, 2005
January 18, 2006

1 session
1 session

Total Forum Fees = \$ 5,200.00

Pursuant to the parties' agreement, the Panel has assessed the amount of \$5,200.00 in forum fees to Morgan Stanley.

Fee Summary

04-00748

1. Claimants are liable for:

Initial Filing Fee	= \$ 250.00
<u>Total Fees</u>	= \$ 250.00
<u>Less payments</u>	= \$ 1,250.00
Refund Due to Claimants	= \$ 1,000.00

2. Morgan Stanley is solely liable for:

Member Fees	= \$ 4,450.00
<u>Forum Fees</u>	= \$ 4,400.00
<u>Total Fees</u>	= \$ 8,850.00
<u>Less payments</u>	= \$ 2,250.00
Balance Due NASD Dispute Resolution	= \$ 6,600.00

04-04147

1. Claimant is solely liable for:

<u>Initial Filing Fee</u>	= \$ 250.00
<u>Total Fees</u>	= \$ 250.00
<u>Less payments</u>	= \$ 1,250.00
Refund Due to Claimant	= \$ 1,000.00

2. Morgan Stanley is solely liable for:

<u>Member Fees</u>	= \$ 1,500.00
<u>Total Fees</u>	= \$ 1,500.00
<u>Less payments</u>	= \$ 1,500.00
Balance Due NASD Dispute Resolution	= \$ 0.00

04-04148

1. Claimants are liable for:

<u>Initial Filing Fees</u>	= \$ 250.00
<u>Total Fees</u>	= \$ 250.00
<u>Less payments</u>	= \$ 1,250.00
Refund Due to Claimant	= \$ 1,000.00

2. Morgan Stanley is solely liable for:

Member Fees	= \$ 4,450.00
Forum Fees	= \$ 5,200.00
Total Fees	= \$ 9,650.00
Less payments	= \$ 4,450.00
Balance Due NASD Dispute Resolution	= \$ 5,200.00

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

ARBITRATION PANEL

James P. O'Neill, Esq.	-	Public Arbitrator, Presiding Chairperson
Ivan W. Harper, CPA	-	Public Arbitrator
Gregory D. Fitzpatrick	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

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.

James P. O'Neill, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

Ivan W. Harper, CPA
Public Arbitrator

Signature Date

Gregory D. Fitzpatrick
Non-Public Arbitrator

Signature Date

Date of Service (For NASD Dispute Resolution use only)

NASD Dispute Resolution
Arbitration No. 04-00748
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ARBITRATION PANEL

James P. O'Neill, Esq.	-	Public Arbitrator, Presiding Chairperson
Ivan W. Harper, CPA	-	Public Arbitrator
Gregory D. Fitzpatrick	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

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.


James P. O'Neill, Esq.
Public Arbitrator, Presiding Chairperson

April 10, 2006
Signature Date

Ivan W. Harper, CPA
Public Arbitrator

Signature Date

Gregory D. Fitzpatrick
Non-Public Arbitrator

Signature Date

May 1, 2006

Date of Service (For NASD Dispute Resolution use only)

ARBITRATION PANEL

James P. O'Neill, Esq.	-	Public Arbitrator, Presiding Chairperson
Ivan W. Harper, CPA	-	Public Arbitrator
Gregory D. Fitzpatrick	-	Non-Public Arbitrator

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James P. O'Neill, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date



Ivan W. Harper, CPA
Public Arbitrator

4/12/06

Signature Date

Gregory D. Fitzpatrick
Non-Public Arbitrator

Signature Date

May 1, 2006

Date of Service (For NASD Dispute Resolution use only)

NASD Dispute Resolution
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ARBITRATION PANEL

James P. O'Neill, Esq.	-	Public Arbitrator, Presiding Chairperson
Ivan W. Harper, CPA	-	Public Arbitrator
Gregory D. Fitzpatrick	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

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.

James P. O'Neill, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

Ivan W. Harper, CPA
Public Arbitrator

Signature Date



Gregory D. Fitzpatrick
Non-Public Arbitrator



Signature Date

May 1, 2006

Date of Service (For NASD Dispute Resolution use only)