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**Stipulated Award**  
**NASD Dispute Resolution**

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In the Matter of the Arbitration Between:

Name of the Claimant  
Robert A. Buchanan

Case Number: 04-00869

Names of the Respondents  
Morgan Stanley Dean Witter  
Gary Christensen  
Teri Salach

Hearing Site: Tampa, Florida

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Nature of the Dispute: Customer vs. Member and Associated Person.

**REPRESENTATION OF PARTIES**

For Robert A. Buchanan, ("Buchanan") hereinafter referred to as "Claimant": Jason R. Doss, Esq., Page Perry, LLC, Atlanta, Georgia.

For Morgan Stanley Dean Witter ("Morgan Stanley"), Gary Christensen ("Christensen"), and Teri Salach ("Salach") hereinafter collectively referred to as "Respondents": Frederick S. Schriels, Esq., Gray Robinson, P.A., Tampa, Florida.

**CASE INFORMATION**

Statement of Claim filed on or about: February 13, 2004.

Claimant signed the Uniform Submission Agreement: February 1, 2004.

Statement of Answer filed by Respondents on or about: April 13, 2004.

Respondent Morgan Stanley signed the Uniform Submission Agreement: April 12, 2004.

Respondent Salach signed the Uniform Submission Agreement: April 12, 2004.

Respondent Christensen signed the Uniform Submission Agreement: March 19, 2004.

Amended Statement of Claim filed on or about: January 3, 2005.

Respondents' Answer and Defenses to Amended Statement of Claim filed on or about: January 26, 2005.

Motion for Judicial Notice filed by Claimant on or about: February 17, 2004.

Supplemental Request in Connection with the Motion for Judicial Notice filed by Claimant on or about: February 23, 2004.

Response and Opposition to Claimant's Motion for Judicial Notice filed by Respondents on or about: February 28, 2004.

### **CASE SUMMARY**

Claimant asserted the following causes of action: negligence/breach of NASD and NYSE rules, breach of contract, breach of fiduciary duty, failure to supervise and secondary liability, and a violation of Florida's Securities and Investor Protection Act (Chapter 517, Florida Statutes.) The causes of action relate to the purchase or sale of various unspecified stocks and the alleged failure to hedge Claimant's high concentration of Corrections Corporation stock.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and Amended Statement of Claim and asserted a variety of defenses, including statutes of limitation, ratification, estoppel, waiver, the economic loss rule, failure to state a cause of action, no private right of action for alleged SRO rule violations, and independent, intervening market forces.

### **RELIEF REQUESTED**

Claimant requested, as amended, unspecified compensatory damages; interest; fees, commissions and margin interest paid; costs, including expenses and attorneys' fees; punitive damages; a finding that Respondents are in violation of Fla. Stat. Chapter 517 and such other and further relief as this panel deemed appropriate.

Respondents requested dismissal of all claims, with prejudice, as well as the expungement of this action from Mr. Christensen's and Ms. Salach's securities industry registration records.

### **OTHER ISSUES CONSIDERED AND DECIDED**

On or about March 10, 2005, the Panel issued an order that denied Claimant's Motion for Judicial Notice.

By letter dated April 20, 2005, Claimant dismissed his claims against Respondents Christensen and Salach. On or about August 18, 2005, the remaining parties submitted a Joint Motion for Stipulated Arbitration Award which indicated that the remaining parties had resolved their differences and requested that the Panel enter a Final Arbitration Award recommending the expungement of this action from the securities industry registration records of the previously dismissed individual Respondents. By order dated August 24, 2005, the Panel granted the parties' motion.

On or about September 13, 2005, Respondents filed with NASD the parties' proposed Stipulated Award that included the parties' notice of settlement and request for expungement of the NASD Central Registration Depository (the "CRD") records of Respondents Christensen and Salach.

The parties agreed that the Stipulated Award in this matter may be executed in counterpart copies.

### **AWARD**

After considering the pleadings, the Joint Motion for Stipulated Arbitration Award, the proposed Stipulated Award and the record in this matter, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Claimant's claims are dismissed in their entirety, with prejudice, and any and all relief requested by Claimant (including punitive damages) is denied.
2. The Panel recommends the expungement of all references to the above-captioned arbitration from the registration records of Respondents Christensen and Salach, maintained by the NASD CRD, with the understanding that, pursuant to NASD Notices to Members 99-09 and 99-54, Respondents Christensen and Salach, must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

### **FEES**

Pursuant to the NASD Code of Arbitration Procedure (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	= \$ 250.00
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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(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute. Accordingly, Respondent Morgan Stanley is a party and a member firm.

Member surcharge	= \$1,500.00
Pre-hearing process fee	= \$ 750.00
<u>Hearing process fee</u>	= \$2,200.00
Total Member Fees	= \$4,450.00

#### **Adjournment Fees**

Adjournments granted during these proceedings for which fees were assessed:

There were no adjournment fees assessed during these proceedings.

#### **Three-Day Cancellation Fees**

Fees apply when a hearing on the merits is postponed or settled within three business days before the start of a scheduled hearing session:

There were no three-day cancellation fees assessed during these proceedings.

#### **Injunctive Relief Fees**

Injunctive relief fees are assessed to each member or associated person who files for a temporary injunction in court. Parties in these cases are also assessed arbitrator travel expenses and costs when an arbitrator is required to travel outside his or her hearing location and additional arbitrator honoraria for the hearing for permanent injunction. These fees, except the injunctive relief surcharge, are assessed equally against each party unless otherwise directed by the panel.

There were no injunctive relief fees assessed during these proceedings.

**Forum Fees and Assessments**

The Panel has assessed forum fees for each session conducted. A 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 @ \$450.00/session = \$ 450.00  
Pre-hearing conference: March 17, 2005 1 session

Three (3) Pre-hearing sessions with the Panel @ \$1,000.00/session = \$ 3,000.00  
Pre-hearing conferences: July 28, 2004 1 session  
January 19, 2005 1 session  
March 9, 2005 1 session

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Total Forum Fees = \$3,450.00

The Panel has assessed \$1725.00 of the forum fees to Claimant.

The Panel has assessed \$1725.00 of the forum fees to Respondent Morgan Stanley.

**Administrative Costs**

Administrative costs are expenses incurred due to a request by a party for special services beyond the normal administrative services. These include, but not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

There were no administrative costs incurred during these proceedings.

**Fee Summary**

Claimant is solely liable for:

Initial Filing Fee	= \$ 250.00
<u>Forum Fees</u>	= \$ 1,725.00
Total Fees	= \$ 1,975.00
<u>Less payments</u>	= \$ 1,700.00
Balance Due NASD Dispute Resolution	= \$ 275.00

Respondent Morgan Stanley is solely liable for:

Member Fees	= \$4,450.00
<u>Forum Fees</u>	= \$1,725.00
Total Fees	= \$6,175.00
<u>Less payments</u>	= \$6,175.00
Balance Due NASD Dispute Resolution	= \$ 0.00

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

**ARBITRATION PANEL**

Cheryl Mitchell  
Michael Buhr  
Philip Mark Stein

Public Arbitrator, Presiding Chairperson  
Public Arbitrator  
Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

/s/  
Cheryl Mitchell  
Public Arbitrator, Presiding Chairperson

September 21, 2005  
Signature Date

/s/  
Michael Buhr  
Public Arbitrator

September 21, 2005  
Signature Date

/s/  
Philip Mark Stein  
Non-Public Arbitrator

September 21, 2005  
Signature Date

September 21, 2005  
Date of Service (For NASD Dispute Resolution office use only)

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Arbitration No. 04-00869  
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Public Arbitrator, Presiding Chairperson

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Signature Date

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