

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

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In the Matter of the Arbitration Between

Name of Claimants

Harry J. Siwkowski and Judith A. Siwkowski

vs.

04-01711  
Chicago, Illinois

Name of Respondents

Jeffery Bobrowicz and Morgan Stanley Dean Witter Inc.

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

**REPRESENTATION OF PARTIES**

Harry J. Siwkowski and Judith A. Siwkowski ("Claimants") were represented by Edna Selan Epstein, Esq. of Law offices of Edna Selan Epstein, located in Chicago, Illinois and Angelika Kuen, Esq., of Angelika Kuehn, Attorney at Law, located in Oak Park, Illinois.

Morgan Stanley Dean Witter Inc. ("Respondent") or ("MSDW") and Jeffery Bobrowicz ("Respondent") or ("Bobrowicz") were represented by Ronald E. Wood, Esq. of Morgan Stanley, Law Division, located in Los Angeles, California.

**CASE INFORMATION**

The Statement of Claim was filed in March 12, 2004. Submission Agreement of Claimant was signed on March 10, 2004. Claimants filed an Amended Statement of Claim on April 12, 2004.

Respondents' Statement of Answer was served on June 10, 2004. Respondent MSDW signed a Uniform Submission Agreement on June 10, 2004. Respondent Bobrowicz filed an executed Uniform Submission Agreement on June 10, 2004.

**CASE SUMMARY**

Claimants alleged the following causes of action: unsuitable investments; violations of Section 10(b) of the Securities Exchange Act; violations of the Illinois Consumer Fraud and Deceptive Business Practices Act; violations of Rules 2310, 2110, 2120 and 3010 of the NASD; violations of Rules 405 and 408 of the New York Stock Exchange; violations of law of agency, breach of fiduciary duty; and, failure to supervise under the principles of

respondeat superior. These allegations are in connection with the Claimant's Purchase of high-risk stock and a highly leveraged margin account.

*Respondents denied each of the allegations set forth in the Statement of Claim.*

### **RELIEF REQUESTED**

Claimants requested an award of actual damages in the amount of \$1,800,000 and \$1,800,000 in punitive damages. Claimants also requested interest, costs and attorneys' fees.

Respondents requested that the claims asserted against them be denied in their entirety, and that they be awarded their costs and attorneys' fees.

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

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.) Respondents Jeffrey Bobrowicz and Morgan Stanley Morgan Stanley DW Inc. are jointly and severally liable and shall pay to Claimants Harry J. Siwkowski and Judith A. Siwkowski the sum of \$110,000.00 in compensatory damages;
- 2.) Other than Forum Fees which are specified below, the parties shall each bear their own costs and expenses incurred in this matter; and,
- 3.) Any relief not specifically enumerated, including punitive 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

### **Member Fees**

Member fees are assessed to each member firm that is a party in these proceedings or to the member firms 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 = \$ 2,800.00  
Pre-hearing process fee = \$ 750.00  
Hearing process fee = \$ 5,000.00

### **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 sessions with a single arbitrator x \$ 450.00 = \$ 450.00  
Pre-hearing conference: February 22, 2005 1 session

One (1) Pre-hearing session with Panel x \$ 1200.00 = \$1,200.00  
Pre-hearing conference: December 1, 2004 1 session

(15) Hearing sessions:	June 6, 2005	2 sessions	= \$18,000.00
	June 7, 2005	2 sessions	
	June 8, 2005	2 sessions	
	June 9, 2005	2 sessions	
	July 5, 2005	2 sessions	
	July 6, 2005	2 sessions	
	July 7, 2005	2 sessions	
	July 8, 2005	1 session	

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Total Forum Fees = \$19,650.00

The Arbitration Panel has assessed \$1,200.00 of the forum fees to Claimants Harry J. Siwkowski and Judith A. Siwkowski jointly and severally.

The Arbitration Panel has assessed \$18,450.00 of the forum fees jointly and severally to Jeffrey Bobrowicz and Morgan Stanley Morgan Stanley DW Inc.

**Fee Summary**

Claimants Siwkowski and Judith A. Siwkowski are jointly and severally liable for:

Initial Filing Fee	= \$ 600.00
Forum Fees	= \$ 1,200.00
Total Fees	= \$ 1,800.00
<u>Less payments</u>	<u>= \$ 1,800.00</u>
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondent Morgan Stanley Morgan Stanley DW Inc, is liable for:

Member Fees	= \$ 8,550.00
Total Fee	= \$ 8,550.00
<u>Less payments</u>	<u>= \$ 8,550.00</u>
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondents Morgan Stanley Morgan Stanley DW Inc. and Jeffery Bobrowicz are jointly and severally liable for:

Forum Fee	= \$18,450.00
Total Fees	= \$18,450.00
<u>Less payments</u>	<u>= \$ .00</u>
Balance Due NASD Dispute Resolution	= \$18,450.00

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

**ARBITRATION PANEL**

Sheldon I. Saitlin, Esq. - Public Arbitrator, Presiding Chair  
Bradford S. Allen, Esq. - Public Arbitrator  
Robert B. Schmidt - Non-Public Arbitrator

Concurring Arbitrators:

\_\_\_\_\_  
Sheldon I. Saitlin, Esq.  
Public Arbitrator, Presiding Chair

\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Bradford S. Allen, Esq.  
Public Arbitrator

\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Robert B. Schmidt  
Non-Public Arbitrator

\_\_\_\_\_  
Signature Date

NASD Dispute Resolution, Inc.

Arbitration No. 04-01711

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*August 01, 2005*

Date of Service (For NASD office use only)

NASD Dispute Resolution, Inc.  
Arbitration No. 04-01711  
Award Page 4 of 5

**Fee Summary**

Claimants Siwkowski and Judith A. Siwkowski are jointly and severally liable for:

Initial Filing Fee	= \$ 600.00
Forum Fees	= \$ 1,200.00
Total Fees	= \$ 1,800.00
Less payments	= \$ 1,800.00
Balance Due NASD Dispute Resolution	= \$ 0.00

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Member Fees	= \$ 8,550.00
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Less payments	= \$ 8,550.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondents Morgan Stanley Morgan Stanley DW Inc. and Jeffery Bobrowicz are jointly and severally liable for:

Fee Type	= \$18,450.00
Total Fees	= \$18,450.00
Less payments	= \$18,450.00
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Bradford S. Allen, Esq. - Public Arbitrator  
Robert B. Schmidt - Non-Public Arbitrator

Concurring Arbitrators:

Sheldon I. Saitlin, Esq.  
Public Arbitrator, Presiding Chair

Bradford S. Allen  
Bradford S. Allen, Esq.  
Public Arbitrator

Signature Date

July 29, 2005  
Signature Date

Robert B. Schmidt  
Non-Public Arbitrator

Signature Date

NASD Dispute Resolution, Inc.  
Arbitration No. 04-01711  
Award Page 4 of 5

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Member Fees	= \$ 8,550.00
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Sheldon I. Saitlin, Esq. - Public Arbitrator, Presiding Chair  
Bradford S. Allen, Esq. - Public Arbitrator  
Robert B. Schmidt - Non-Public Arbitrator

Concurring Arbitrators:

  
Sheldon I. Saitlin, Esq  
Public Arbitrator, Presiding Chair

  
Signature Date

Bradford S. Allen, Esq.  
Public Arbitrator

Signature Date

Robert B. Schmidt  
Non-Public Arbitrator

Signature Date