

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimant
John Francis Shupe

Case Number: 04-04028

Names of the Respondents
Morgan Stanley Dean Witter, Inc.
Paul R. Andrews, Jr.

Hearing Site: Washington, D.C.

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

REPRESENTATION OF PARTIES

Claimant, John Francis Shupe, hereinafter referred to as "Claimant", was represented by Joseph A. Artabane, Esq., Artabane & Belden, P.C., Washington, D.C.

Respondents, Morgan Stanley Dean Witter, Inc. ("Morgan Stanley"), and Paul R. Andrews, Jr., ("Andrews"), hereinafter collectively referred to as "Respondents", were represented by Howard M. Sendrovitz, Esq., Greenberg Traurig, L.L.P., New York, New York.

CASE INFORMATION

Statement of Claim filed on or about June 8, 2004.

Claimant signed the Uniform Submission Agreement on July 1, 2004.

Statement of Answer filed by Respondents on September 14, 2004.

Respondents did not sign Uniform Submission Agreements.

CASE SUMMARY

Claimant asserted the following causes of action, among others: churning, breach of fiduciary duty, misrepresentation, failure to execute, breach of contract, failure to supervise, and vicarious liability. The causes of action relate to various securities including Qualcomm, Inc.; Radio One; Globespan, Inc.; Lucent Technologies; All Star Growth Fund C; and Mid-Cap Equity Trust.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted the following defenses, among others: the Statement of Claim fails to state a claim upon which relief can be granted; Claimant approved, authorized and ratified all the acts complained of; assumption of risk; and Claimant's claims are barred in whole or in part by the doctrines of estoppel and laches.

RELIEF REQUESTED

Claimant in his Statement of Claim requested:

| | |
|----------------------|--------------------|
| Compensatory Damages | \$ 300,000.00 |
| Punitive Damages | \$1,000,000.00 |
| Interest | amount unspecified |
| Attorneys' Fees | amount unspecified |
| Other Costs | amount unspecified |

Respondents in their Statement of Answer requested that the Statement of Claim be dismissed in its entirety, that the Arbitration Panel (the "Panel") recommend the expungement of all references to this arbitration from Respondent Andrews' record maintained by the NASD Central Registration Depository ("CRD"), and that Respondent Morgan Stanley be awarded its costs and expenses.

OTHER ISSUES CONSIDERED AND DECIDED

Respondents did not file with NASD Dispute Resolution, properly executed submissions to arbitration but are required to submit to arbitration pursuant to the NASD Code of Arbitration Procedure (the "Code") and are bound by the determination of the Panel on all issues submitted.

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.

AWARD

After considering the pleadings, the testimony and evidence presented at the hearing, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondent Morgan Stanley is liable to and shall pay to Claimant compensatory damages in the amount of \$150,000.00;
2. All claims against Respondent Andrews are denied in their entirety;
3. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Andrews' 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, Respondent Andrews must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.
4. All claims for punitive damages and attorneys' fees are denied in their entirety;
5. The parties shall bear their respective costs, except as Fees are specifically addressed

below; and

6. Any and all relief not specifically addressed herein is denied in its entirety.

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 = \$ 500.00

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(s) at the time of the events giving rise to the dispute. Accordingly, Morgan Stanley is a party.

Member surcharge = \$ 2,800.00

Pre-hearing process fee = \$ 750.00

Hearing process fee = \$ 5,000.00

Total Member Fees = \$ 8,550.00

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 Panel @ \$1,200.00 = \$ 1,200.00

Pre-hearing conference: December 16, 2004 1 session

Four (4) Hearing sessions @ \$1,200.00 = \$ 4,800.00

Hearing Date/s: May 10, 2005 2 sessions

May 11, 2005 2 sessions

Total Forum Fees = \$ 6,000.00

1. The Panel has assessed \$3,000.00 of the forum fees to Claimant.

2. The Panel has assessed \$3,000.00 of the forum fees to Respondent Morgan Stanley.

EEE SUMMARY

1. Claimant is assessed and shall pay the following fees:

Initial Filing Fee = \$ 500.00

Forum Fees = \$ 3,000.00

Total Fees = \$ 3,500.00

Less payments = \$ 1,700.00

Balance Due NASD Dispute Resolution = \$ 1,800.00

2. Respondent Morgan Stanley is assessed and shall pay the following fees:

| | |
|-------------------------------------|---------------|
| Member Fees | = \$ 8,550.00 |
| Forum Fees | = \$ 3,000.00 |
| Total Fees | = \$11,550.00 |
| Less payments | = \$ 8,550.00 |
| Balance Due NASD Dispute Resolution | = \$ 3,000.00 |

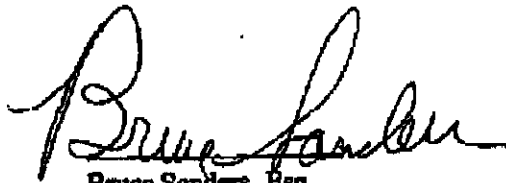
All balances are payable to NASD Dispute Resolution and are due upon receipt pursuant to Rule 10330(g) of the Code.

ARBITRATION PANEL

| | | |
|------------------------|---|--|
| Bruce Sanders, Esq. | - | Public Arbitrator, Presiding Chairperson |
| Gloria R. Sulton, Esq. | - | Public Arbitrator, Panelist |
| John Laing Bowles | - | Non-Public Arbitrator, Panelist |

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Concurring Arbitrators' Signatures



Bruce Sanders, Esq.
Public Arbitrator, Presiding Chairperson

5-13-05

Signature Date

Gloria R. Sutton, Esq.
Public Arbitrator, Panelist

Signature Date

John Laing Bowles
Non-Public Arbitrator, Panelist

Signature Date

5/19/05

Date of Service (For NASD Dispute Resolution office use only)

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Concurring Arbitrators' Signatures

Bruce Sanders, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date



Gloria R. Sutton, Esq.
Public Arbitrator, Panelist

5-19-05

Signature Date

John Laing Bowles
Non-Public Arbitrator, Panelist

Signature Date

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Bruce Sanders, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

Gloria R. Sulton, Esq.
Public Arbitrator, Panelist

Signature Date

John Laing Bowles
John Laing Bowles
Non-Public Arbitrator, Panelist

5/14/05
Signature Date

5/19/05
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