

Stipulated Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

James F. Byrnes (Claimant) v. Morgan Stanley Dean Witter & Co., and Robert P. Hart
(Respondents)

Case Number: 04-05351

Hearing Site: Newark, New Jersey

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

REPRESENTATION OF PARTIES

Claimant James F. Byrnes ("Byrnes") hereinafter referred to as "Claimant": John J. Blanchard, Esq., Sea Girt, NJ.

Respondents Morgan Stanley Dean Witter & Co., Inc., ("Morgan Stanley") and Robert P. Hart ("Hart") hereinafter collectively referred to as "Respondents": Dina A. DeFalco, Esq., Morgan Stanley DW, Inc., Purchase, NY.

CASE INFORMATION

Statement of Claim filed on or about: July 26, 2004.

Claimant signed the Uniform Submission Agreement: July 22, 2004.

Joint Statement of Answer filed by Respondents on or about: September 16, 2004.

Respondent Morgan Stanley signed the Uniform Submission Agreement: September 15, 2004.

Respondent Hart signed the Uniform Submission Agreement: August 22, 2004.

CASE SUMMARY

Claimant asserted the following causes of action: violations of the Securities Exchange Act of 1934; rules of the NASD; misrepresentations and omissions; fraud; negligence; breach of fiduciary duty; and failure to supervise. The causes of action relate to unspecified technology stocks.

Unless specifically admitted in its Answer, Respondents denied the allegations of wrongdoing set forth in the Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

Claimant requested compensatory damages in the amount of \$340,976.00; interest; attorney's fees; and other costs.

Respondents requested that the Panel dismiss the Statement of Claim in its entirety; order expungement of the Statement of Claim from Respondent Robert P. Hart's CRD; award Respondents the costs and expenses of this arbitration; and award Respondents such other relief as is just and proper.

OTHER ISSUES CONSIDERED AND DECIDED

On or about May 17, 2005, the parties entered into a confidential settlement agreement.

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 both 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. Pursuant to the confidential settlement agreement reached between the parties, all claims against Respondents Morgan Stanley Dean Witter and Robert P. Hart are dismissed with prejudice.
2. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Robert P. Hart's registration records maintained by the Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notices to Members 04-16, Respondent Robert P. Hart must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

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

The claim, allegation, or information is factually impossible or clearly erroneous.

3. The parties shall bear their respective costs, including attorney's fees. All balances are payable to the NASD Dispute Resolution and are due upon receipt pursuant to Rule 10330(g) of the code.
4. 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, Inc. will retain or collect the non-refundable filing fees for each claim:

| | |
|--------------------------|-------------|
| Initial claim filing fee | = \$ 300.00 |
|--------------------------|-------------|

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 persons at the time of the events giving rise to the dispute. In this matter, the member firm Morgan Stanley is a party.

| | |
|-------------------------|---------------|
| Member Surcharge | = \$ 1,700.00 |
| Pre-Hearing Process Fee | = \$ 750.00 |
| Hearing Process Fee | = \$ 2,750.00 |

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:

| | |
|--|-------------|
| May 17-19, 2005, settled by Respondent, Morgan Stanley | = \$ 150.00 |
| May 17-19, 2005, settled by Respondent, Hart | = \$ 150.00 |

Forum Fees and Assessments

The 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. Forum fees associated with these proceedings are:

| | |
|---|---------------|
| One (1) Pre-hearing conference session with the Panel @ \$1,125.00 | = \$ 1,125.00 |
| Pre-hearing conference: November 29, 2004 1 session | |
| One (1) Pre-hearing conference session with a single arbitrator @ \$ 450.00 | = \$ 450.00 |
| Pre-hearing conference: April 7, 2004 1 session | |

| | |
|------------------|---------------|
| Total Forum Fees | = \$ 1,575.00 |
|------------------|---------------|

1. The Panel has assessed Claimant Byrnes \$ 525.00 of the forum fees.
2. The Panel has assessed Respondent Morgan Stanley \$ 525.00 of the forum fees.
3. The Panel has assessed Respondent Hart \$ 525.00 of the forum fees.

Fee Summary

1. Claimant is solely liable for:

| | |
|---------------------|---------------|
| Initial Filing Fee | = \$ 300.00 |
| Forum Fees | = \$ 1,125.00 |
| Total Fees | = \$ 1,425.00 |
| Less payments | = \$ 1,450.00 |
| Refund Due Claimant | = \$ 25.00 |

Pursuant to Rule 10332(f) of the Code of Arbitration Procedure, NASD is retaining the total amount of the hearing session deposited by the Claimant because this office was notified by the parties that they settled this matter within eight business days of the first scheduled hearing.

2. Respondent Morgan Stanley is solely liable for:

| | |
|-------------------------------------|---------------|
| Member Fees | = \$ 5,200.00 |
| Three-Day Cancellation | = \$ 150.00 |
| Forum Fees | = \$ 525.00 |
| Total Fees | = \$ 5,875.00 |
| Less payments | = \$ 5,500.00 |
| Balance Due NASD Dispute Resolution | = \$ 375.00 |

3. Respondent Hart is solely liable for:

| | |
|---|-------------|
| Three-Day Cancellation | = \$ 150.00 |
| Forum Fees | = \$ 525.00 |
| Balance Due NASD Dispute Resolution, Inc. | = \$ 675.00 |

All balances are due and payable to NASD Dispute Resolution

Parties' Signatures



James F. Byrnes
Claimant

June 30, 2005
Signature Date

Morgan Stanley Dean Witter & Co.
Respondent

Signature Date

Robert P. Hart
Respondent

Signature Date

Parties' Signatures

James F. Byrnes
Claimant

Signature Date

James A. DeFazio, Vice President
Morgan Stanley Dean Witter & Co.
Respondent

6/27/05
Signature Date

James A. DeFazio, Attorney for Robert P. Hart
Robert P. Hart
Respondent

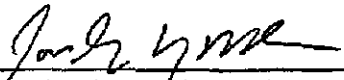
6/27/05
Signature Date

ARBITRATION PANEL

| | | |
|--------------------------|---|------------------------------------|
| Jordan Roy Nelson, Ph.D. | - | Public Arbitrator, Presiding Chair |
| Herbert L. Marx, Jr. | - | Public Arbitrator |
| Patrick J. Howley, Esq. | - | 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 is which is my award.



Jordan Roy Nelson, Ph.D.
Public Arbitrator, Presiding Chair

8/17/05

Signature Date

Herbert L. Marx, Jr.
Public Arbitrator

Signature Date

Patrick J. Howley, Esq.
Non-Public Arbitrator

Signature Date

August 18, 2005

Date of Service (For NASD office use only)

ARBITRATION PANEL

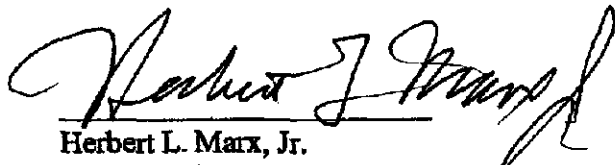
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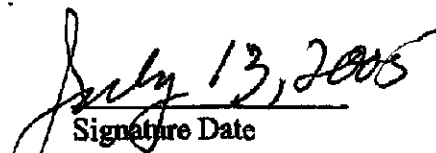
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Jordan Roy Nelson, Ph.D.
Public Arbitrator, Presiding Chair

Signature Date




Herbert L. Marx, Jr.
Public Arbitrator



Signature Date

Patrick J. Howley, Esq.
Non-Public Arbitrator

Signature Date



Date of Service (For NASD office use only)

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Jordan Roy Nelson, Ph.D.
Public Arbitrator, Presiding Chair

Signature Date

Herbert L. Marx, Jr.
Public Arbitrator

Signature Date



Patrick J. Howley, Esq.
Non-Public Arbitrator

7-21-05
Signature Date

August 18, 2005
Date of Service (For NASD office use only)