

**PACIFIC EXCHANGE, INC.
115 Sansome Street
San Francisco, CA 94104**

In The Matter Of The Arbitration Between:

Elaine Kellett, individually, as
Trustee of the Kellett-O'Neill Family
Trust DTD 09/04/97, on behalf of
the Elaine Kellett IRA Standard
DTD 02-06/01, and on behalf of
the Elaine Kellett IRA SEP DTD
06/15/90,

Claimant

v.

Morgan Stanley DW, Inc.

Respondent

PCX CASE #: 04-S009

DECISION

The undersigned Arbitrators, having read and considered the Claim submitted by Claimant and the Answer of Respondent, and having considered evidence presented at the hearings on October 25 - 28, 2005, hereby render the following Decision pursuant to Rule 12 of the Pacific Exchange:

REPRESENTATION OF PARTIES

Of Claimant: Jeffrey M. Jones, Esq.
Law Offices of Jeffrey M. Jones, P.C.

Of Respondent: Kenneth C. Mennemeier, Esq.
Mennemeier, Glassman & Stroud LLP

HISTORY OF CASE

Statement of Claim filed: June 22, 2004
Statement of Answer filed: October 4, 2004

Prehearing Conferences: February 15, 2005
October 20, 2005

Hearing Dates: October 25 - 28, 2005

SUMMARY OF CASE

Claimant argued that Respondent agreed to allocate her assets and failed to do so. Respondent argued that the asset allocation was to be accomplished by Claimant's actions, which she failed to do.

ISSUES PRESENTED

Whether the failure of asset allocation was Claimant's or Respondent's fault.

RELIEF REQUESTED

Claimant requested \$350,000.00 in damages, plus punitive damages.

FINDINGS AND DECISION

After considering the argument and evidence of both the Claimant and Respondent in this matter, the undersigned Arbitrators make the final determination and decision of the issues presented, as set forth below:

A. Decision

1. The failure to allocate assets was not the fault of the Respondent.
2. The Panel finds in favor of Respondent. Claimant's claims are denied.
3. All claims for monetary damages, punitive damages, costs and attorney fees are denied.

B. Other determinations

1. Respondent shall reimburse Claimant's non-refundable filing fee: ☐ YES ☒ NO
2. Respondent shall reimburse Claimant's hearing session deposit: ☐ YES ☒ NO
3. Parties shall bear their own costs of arbitration: ☒ YES ☐ NO
4. Should this matter be referred to any regulatory organization (SRO or SEC) for disciplinary investigation of rule violations or violation federal securities laws? ☐ YES ☒ NO

C. Forum Fees

Two prehearing conferences	X	\$750	=	\$1,500
Seven hearing sessions	X	\$750	=	\$5,250
Total Forum Fees		=	\$6,750	

Forum fees, in the amount of \$6,750, are assigned wholly against Claimant.

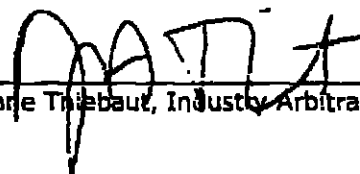
Dated: 11-9-05


John Collentine, Chair

Dated: _____

Michael Golden, Public Arbitrator

Dated: 11/15/05


Julieanne Thiebaut, Industry Arbitrator

Dated: _____

John Collentine, Chair

Dated: 11/7/05 _____


Michael Golden, Public Arbitrator

Dated: _____

Julianne Thiebaut, Industry Arbitrator