

## **Stipulated Award**

### **NASD Dispute Resolution**

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In the Matter of the Arbitration Between:

Joseph Gecsed, Helga Gecsed, Joseph Gecsed IRA, and Modern Sweaters Manufacturing Company, Inc. (Claimants) vs. Morgan Stanley Dean Witter, Inc., Joseph Monaco, and Anthony Ferraro (Respondents)

Case Number: 05-00105

Hearing Site: New York, New York

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

### **REPRESENTATION OF PARTIES**

Claimants Joseph Gecsed ("J. Gecsed"), Helga Gecsed ("H. Gecsed"), Joseph Gecsed IRA ("Gecsed IRA"), and Modern Sweaters Manufacturing Company, Inc. ("Modern Sweaters") hereinafter collectively referred to as "Claimants": John T. McGuire, Esq., John T. McGuire & Associates, P.C., New York, NY and Robert C. Carlsen, Esq., Robert C. Carlsen, P.C., Glendale, NY.

Respondents Morgan Stanley Dean Witter, Inc. ("Morgan Stanley"), Joseph Monaco ("Monaco"), and Anthony Ferraro ("Ferraro") hereinafter collectively referred to as "Respondents": William D. Briendel, Esq. and Joseph DaProcida, Esq., Greenberg Traurig, LLP, New York, NY.

### **CASE INFORMATION**

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

J. Gecsed signed the Uniform Submission Agreement on or about: December 22, 2004.

H. Gecsed signed the Uniform Submission Agreement on or about: December 22, 2004.

Gecsed IRA signed the Uniform Submission Agreement on or about: December 22, 2004.

Modern Sweaters signed the Uniform Submission Agreement on or about: December 22, 2004.

Statement of Answer filed by Respondents on or about: March 16, 2005.

Morgan Stanley signed the Uniform Submission Agreement on or about: June 10, 2005.

Monaco signed the Uniform Submission Agreement on or about: May 25, 2005.

Ferraro signed the Uniform Submission Agreement on or about: June 14, 2005.

### **CASE SUMMARY**

Claimants asserted the following causes of action: common law fraud, securities fraud, churning, suitability, and failure to supervise. The causes of action relate to various common stocks and mutual funds.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

### **RELIEF REQUESTED**

Claimants requested compensatory damages in an amount of not less than \$785,257.00 plus interest in the amount of \$400,000.00, punitive damages in the amount of \$2,355,771.00, attorneys' fees, costs, and any other damages the Panel may deem just and fair.

Respondents requested dismissal of the Statement of Claim in its entirety, costs, and such other relief that the arbitration Panel deems fair and equitable.

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

By letter dated May 26, 2006 Claimant informed NASD Dispute Resolution that the parties settled this matter.

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**

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. The parties entered into a confidential General Release and Settlement Agreement.
2. Claimants' claims against Respondents are dismissed in their entirety, with prejudice.
3. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Anthony Ferraro's registration records maintained by the Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notices to Members 04-16, Respondent Ferraro must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

Unless specifically waived in writing by the NASD, parties seeking judicial confirmation of an arbitration award containing expungement relief must name NASD as an additional party and serve NASD with all appropriate documents.

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.

4. Each party shall bear their own costs and attorneys' fees.
5. Any and all relief not specifically addressed herein, including punitive damages, is denied.

### **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
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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 that employed the associated person at the time of the events giving rise to the dispute. Accordingly, Morgan Stanley Dean Witter, Inc. is a party.

Member surcharge	= \$ 2,800.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$ 5,000.00

#### **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 30, 2006 – June 2, 2006, settled by the parties	
Claimants' share, jointly and severally	= \$ 150.00
Respondents' share, jointly and severally	= \$ 150.00

#### **Forum Fees and Assessments**

The Panel has assessed forum fees for each session conducted. A session is any meeting between the parties and the arbitrators, including a pre-hearing conference with the arbitrators, that lasts four (4) hours or less. Fees associated with these proceedings are:

Two (2) Pre-hearing sessions with Panel @ \$1,200.00	= \$ 2,400.00
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Pre-hearing conferences: May 16, 2005 1 session  
November 8, 2006 1 session

Total Forum Fees = \$ 2,400.00

1. Pursuant to Rule 10306, the forum fees for the May 16, 2005 pre-hearing conference are assessed as follows:
  - a. J. Gecsedí is assessed \$171.42 of the forum fees.
  - b. H. Gecsedí is assessed \$171.42 of the forum fees.
  - c. Gecsedí IRA is assessed \$171.42 of the forum fees.
  - d. Modern Sweaters is assessed \$171.42 of the forum fees.
  - e. Morgan Stanley is assessed \$171.42 of the forum fees.
  - f. Monaco is assessed \$171.42 of the forum fees.
  - g. Ferraro is assessed \$171.42 of the forum fees.
2. Pursuant to the parties' agreement, Respondents Morgan Stanley and Ferraro will bear the forum fees in the amount of \$1,200.00 for the November 8, 2006 pre-hearing conference.

#### Fee Summary

1. Claimants are jointly and severally liable for:

Initial Filing Fee	= \$	600.00
Forum Fee	= \$	514.32
Three Day Adjournment Fee	= \$	150.00
Total Fees	= \$	1,264.32
Less payments	= \$	1,114.32
Balance Due NASD Dispute Resolution	= \$	150.00

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

2. J. Gecsedí is solely liable for:

Forum Fees	= \$	171.42
Total Fees	= \$	171.42
Less payments	= \$	171.42
Balance Due NASD Dispute Resolution	= \$	0.00

3. H. Gecsedí is solely liable for:

Forum Fees	= \$	171.42
Total Fees	= \$	171.42
Less payments	= \$	171.42
Balance Due NASD Dispute Resolution	= \$	0.00

4. Gecsedí IRA is solely liable for:

Forum Fees	= \$	171.42
Total Fees	= \$	171.42
Less payments	= \$	171.42
Balance Due NASD Dispute Resolution	= \$	0.00

5. Modern Sweaters is solely liable for:

Forum Fees	= \$	171.42
Total Fees	= \$	171.42
Less payments	= \$	171.42
Balance Due NASD Dispute Resolution	= \$	0.00

6. Respondents are jointly and severally liable for:

Three Day Adjournment Fee	= \$	150.00
Total Fees	= \$	150.00
Less payments	= \$	0.00
Balance Due NASD Dispute Resolution	= \$	150.00

7. Respondent Morgan Stanley is solely liable for:

Member Fees	= \$	8,550.00
Forum Fees	= \$	171.42
Total Fees	= \$	8,721.42
Less payments	= \$	8,550.00
Balance Due NASD Dispute Resolution	= \$	171.42

8. Monaco is solely liable for:

Forum Fees	= \$	171.42
Total Fees	= \$	171.42
Less payments	= \$	0.00
Balance Due NASD Dispute Resolution	= \$	171.42

9. Ferraro is solely liable for:

Forum Fees	= \$	171.42
Total Fees	= \$	171.42
Less payments	= \$	0.00
Balance Due NASD Dispute Resolution	= \$	171.42

10. Respondents Morgan Stanley and Ferraro are jointly and severally liable for:

Forum Fees	= \$	1,200.00
Total Fees	= \$	1,200.00
Less payments	= \$	0.00
Balance Due NASD Dispute Resolution	= \$	1,200.00

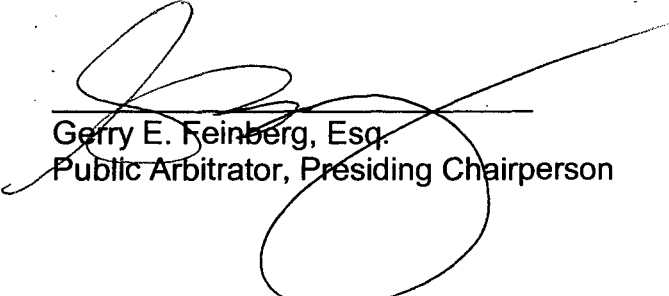
All balances are payable to NASD Dispute Resolution and are due upon receipt pursuant to Rule 10330(g) of the Code.

**ARBITRATION PANEL**

Gerry E. Feinberg, Esq.	-	Public Arbitrator, Presiding Chairperson
Michael C. Cantor	-	Public Arbitrator
Robert A. Cohen	-	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, which is my award.



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Gerry E. Feinberg, Esq.  
Public Arbitrator, Presiding Chairperson

12/27/06  
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Signature Date

\_\_\_\_\_  
Michael C. Cantor  
Public Arbitrator

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Signature Date

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Robert A. Cohen  
Non-Public Arbitrator

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Signature Date

January 9, 2007  
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Date of Service (For NASD Dispute Resolution use only)

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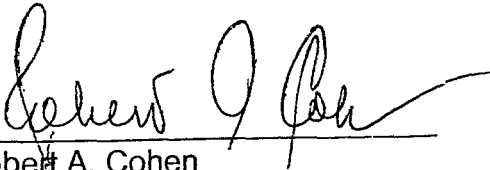
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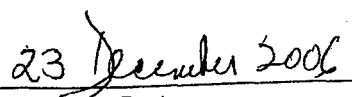
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