

**Stipulated Award  
NASD Dispute Resolution**

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In the Matter of the Arbitration Between:

Arthur J. Harrison, Jr. v. Morgan Stanley Dean Witter, Ray Wilbur Powell and  
Gregory Ray Powell

Case Number: 05-01416

Hearing Site: Atlanta, Georgia

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

**REPRESENTATION OF PARTIES**

For Arthur J. Harrison, Jr., hereinafter referred to as "Claimant": Pat Huddleston II, Esq.,  
Huddleston & Nohr, Marietta, Georgia.

For Morgan Stanley Dean Witter, ("Morgan Stanley"), Ray Wilbur Powell ("R. Powell") and  
Gregory Ray Powell ("G. Powell"), hereinafter referred to as "Respondents": Peter S.  
Fruin, Esq. and Kathryn Roe Eldridge, Esq., Maynard, Cooper & Gale, P.C.,  
Birmingham, Alabama.

**CASE INFORMATION**

Statement of Claim filed on or about: March 16, 2005.

Claimant signed the Uniform Submission Agreement: March 3, 2005.

Statement of Answer filed by Respondents on or about: May 24, 2005.

Respondent Morgan Stanley signed the Uniform Submission Agreement: April 12, 2005.

Respondent R. Powell signed the Uniform Submission Agreement: June 12, 2005.

Respondent G. Powell signed the Uniform Submission Agreement: April 4, 2005.

**CASE SUMMARY**

Claimant asserted the following causes of action: (1) unsuitability (2) negligence (3)  
breach of fiduciary duty (4) fraud (5) breach of contract (6) negligent misrepresentation  
and omission (7) respondeat superior and (8) failure to supervise. The causes of action  
relate to Claimant's investments in various Morgan Stanley proprietary mutual funds.

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

### **RELIEF REQUESTED**

Claimant requested quantifiable damages of \$100,000.00, plus lost opportunity damages, interest, attorneys' fees, tax losses, and punitive damages.

Respondents requested dismissal of the Statement of Claim in its entirety, an order that all references to this matter be specifically ordered to be expunged from G. Powell's and R. Powell's respective individual Central Registration Depository ("CRD") records, an assessment of all costs and forum fees against Claimant, and such other relief as is just and proper.

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

Claimant and Respondents entered into a confidential settlement agreement. In connection with that agreement, Claimant dismissed all claims against Respondents with prejudice. In addition, Respondents determined not to pursue the request for an expungement of Respondent R. Powell's CRD record.

On or about June 9, 2006, Respondents filed with NASD Dispute Resolution a Joint Motion for Expungement of Complaint From Gregory Ray Powell's CRD Record ("Joint Motion") and a proposed Stipulated Award. On or about June 19, 2006, the arbitration panel issued an order which stated that the Panel did not believe it had sufficient information to grant the expungement and requested that the parties submit additional information and their availability to conduct a telephonic hearing to address the Joint Motion. On or about July 7, 2006, Respondents filed with NASD Dispute Resolution Respondent Gregory Powell's Supplemental Information in Support of Joint Motion for Expungement and the parties' availability to conduct a telephonic hearing.

The parties agreed that the Stipulated Award in this matter may be executed in counterpart copies or that a handwritten, signed Stipulated Award may be entered.

### **AWARD**

The parties entered into an agreement to present to the Panel a Stipulated Award. Now, upon motion of all parties for the entry of an award, the written stipulation thereto, the Panel grants the motion and enters this award granting the following relief:

1. Claimant's claims are hereby denied and dismissed with prejudice;
2. The Panel recommends the expungement of all references to the above captioned arbitration from Respondent G. Powell's registration records maintained by the CRD, with the understanding that pursuant to NASD Notice to

Members 04-16, Respondent G. Powell must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive;

Unless specifically waived in writing by 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, the arbitration panel has made the following affirmative finding of fact:

The Panel finds that G. Powell was not involved in the alleged investment-related sales practice or violations;

3. Each party shall bear its own costs and expenses associated with the above-referenced arbitration, including attorneys' fees, except as fees are specifically addressed below; and,
4. Any and all requests for relief not specifically addressed herein are denied.

### **FEES**

Pursuant to the NASD Code of Arbitration Procedure (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	= \$ 225.00
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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(s) at the time of the events giving rise to the dispute. In this matter, the member firm is Morgan Stanley.

Member Surcharge	= \$ 1,100.00
Pre-Hearing Process Fee	= \$ 750.00
Hearing Process Fee	= \$ 1,700.00
Total Member Fees	= \$ 3,550.00

#### **Adjournment Fees**

The following adjournment fees are assessed:

There were no adjournment fees assessed in this matter.

### **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.

There were no three day cancellation fees assessed in this matter.

### **Forum Fees and Assessments**

The Arbitrator/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. Forum fees associated with these proceedings are:

Two (2) Pre-hearing conferences with the Panel @ \$750.00/session	= \$ 1,500.00
Pre-hearing conferences: July 18, 2005      1 session	
August 16, 2005      1 session	
One (1) Hearing session @ \$750.00/session	= \$ 750.00
Hearing: July 18, 2006      1 session	
Total Forum Fees	= \$ 2,250.00

The Panel waived the forum fee of \$750.00 for the July 18, 2005 pre-hearing conference.

The Panel assessed forum fees of \$750.00 to Claimant.

The Panel assessed forum fees of \$750.00 to Respondents, jointly and severally.

### **Administrative Costs**

Administrative costs are expenses incurred because a party requested additional services beyond the normal administrative services. These additional services include, but are not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

There were no administrative costs incurred in this matter.

### **Fee Summary**

Claimant is solely liable for:

Initial Filing Fee	= \$ 225.00
Forum Fees	= \$ 750.00
Total Fees	= \$ 975.00
<u>Less payments</u>	<u>= \$ 975.00</u>
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondent Morgan Stanley is solely liable for:

Member Fees	= \$ 3,550.00
Total Fees	= \$ 3,550.00
Less payments	= \$ 3,550.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondents are jointly and severally liable for:

Forum Fees	= \$ 750.00
Total Fees	= \$ 750.00
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 750.00

All balances are due and payable to NASD Dispute Resolution.

### ARBITRATION PANEL

William Austin Dealy, Jr.  
Eleanor A. Joseph, JD  
Patrick L. Bellantoni

Public Arbitrator, Presiding Chair  
Public Arbitrator  
Non-Public Arbitrator

#### Concurring Arbitrators' Signatures

/s/  
William Austin Dealy, Jr.  
Public Arbitrator, Presiding Chairperson

July 19, 2006  
Signature Date

/s/  
Eleanor A. Joseph, JD  
Public Arbitrator,

July 19, 2006  
Signature Date

/s/  
Patrick L. Bellantoni  
Non-Public Arbitrator

July 19, 2006  
Signature Date

July 20, 2006

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

Member Fees	= \$ 3,550.00
Total Fees	= \$ 3,550.00
Less payments	= \$ 3,550.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondents are jointly and severally liable for:

Forum Fees	= \$ 750.00
Total Fees	= \$ 750.00
Less payments	= \$ 0.00
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Eleanor A. Joseph, JD  
Patrick L. Bellantoni

Public Arbitrator, Presiding Chair  
Public Arbitrator  
Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

  
William Austin Dealy, Jr.  
Public Arbitrator, Presiding Chairperson

07/19/2006  
Signature Date

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Eleanor A. Joseph, JD  
Public Arbitrator,

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

\_\_\_\_\_  
Patrick L. Bellantoni  
Non-Public Arbitrator

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Signature Date

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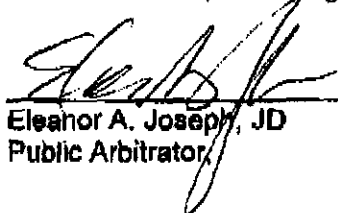
### ARBITRATION PANEL

William Austin Dealy, Jr.  
Eleanor A. Joseph, JD  
Patrick L. Bellantoni

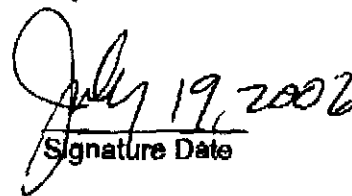
Public Arbitrator, Presiding Chair  
Public Arbitrator  
Non-Public Arbitrator

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Public Arbitrator, Presiding Chairperson

  
Eleanor A. Joseph, JD  
Public Arbitrator

Signature Date

  
Signature Date

Patrick L. Bellantoni  
Non-Public Arbitrator

Signature Date

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Total Fees	= \$ 750.00
<u>Less payments</u>	<u>= \$ 0.00</u>
Balance Due NASD Dispute Resolution	= \$ 750.00

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Eleanor A. Joseph, JD  
Patrick L. Bellantoni

Public Arbitrator, Presiding Chair  
Public Arbitrator  
Non-Public Arbitrator

### Concurring Arbitrators' Signatures

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Public Arbitrator, Presiding Chairperson

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Signature Date

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07/19/2006  
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