

**Award  
FINRA Dispute Resolution**

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In the Matter of the Arbitration Between:

Peter Baltis (Claimant) vs. Morgan Stanley Smith Barney, LLC, as a successor in name, interest and title to Morgan Stanley & Co., Incorporated and Citigroup Global Markets, Inc., and George C. Danes (Respondents)

Case Number: 09-05638

Hearing Site: Albany, New York

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

**REPRESENTATION OF PARTIES**

Claimant Peter Baltis hereinafter referred to as "Claimant": Timothy J. O'Connor, Esq., Law Offices of Timothy J. O'Connor, Albany, NY.

Respondents Morgan Stanley Smith Barney, LLC, as a successor in name, interest and title to Morgan Stanley & Co., Incorporated and Citigroup Global Markets, Inc. ("Morgan Stanley"), and George C. Danes ("Danes"), hereinafter collectively referred to as "Respondents": Thomas P. Briody, Esq., Morgan Stanley Smith Barney, New York, NY.

**CASE INFORMATION**

Statement of Claim filed on or about: September 28, 2009.

Claimant signed the Submission Agreement: September 17, 2009.

Joint Statement of Answer filed by Respondents on or about: January 15, 2010.

Morgan Stanley did not submit a properly executed Submission Agreement.

Danes signed the Submission Agreement: January 13, 2010.

**CASE SUMMARY**

Claimant asserted the following causes of action: breach of contract, breach of fiduciary duty, fraud, misrepresentation, unauthorized trading, and violations of the Securities Exchange Act, FINRA rules, and NYSE rules. The causes of action relate to Boston Scientific and Citibank stocks.

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

### **RELIEF REQUESTED**

Claimant requested compensatory damages in the amount of \$132,176.39, restoration of the valuation of the subject account to the valuation as of June 24, 2008, including the respective securities and cash holdings valuations in said account, filing fees, forum fees, expert witness fees, costs, disbursements, attorneys' fees, and any other further relief which the Panel deems just and appropriate under the circumstances.

Respondents requested dismissal of the Statement of Claim in its entirety, expungement of Danes' CRD records, and such other relief as may be just, proper, or provided by law.

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

The Panel acknowledges that they read the pleadings and other materials submitted by the parties.

Respondent Morgan Stanley did not file with FINRA Dispute Resolution a properly executed Submission Agreement but is required to submit to arbitration pursuant to the Code and, having answered the claim, appeared and testified at the hearing, is 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. Claimant's claims are denied in their entirety.
2. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent George C. Danes' registration records maintained by the Central Registration Depository ("CRD"), with the understanding that pursuant to Notice to Members 04-16, Respondent George C. Danes must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

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

Pursuant to Rule 12805 of the Code, the arbitration panel has made the following Rule 2080 affirmative findings of fact:

The claim, allegation, or information is factually impossible or clearly erroneous. The arbitration panel has made the above Rule 2080 finding based on the following reasons: The claim was clearly erroneous because there was no basis for any claim for damages associated with the alleged unauthorized transfer of the Claimant's account, and the Claimant's testimony regarding the alleged unauthorized trade was not plausible and was inconsistent with other evidence.

3. Any and all relief not specifically addressed herein is denied.

### **FEES**

Pursuant to the Code, the following fees are assessed:

#### **Filing Fees**

FINRA Dispute Resolution assessed a filing fee\* for each claim:

Initial claim filing fee	= \$ 1,425.00
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*\* The filing fee is made up of a non-refundable and a refundable portion.*

#### **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. Accordingly, as a party, Morgan Stanley Smith Barney, LLC, is assessed the following:

Member surcharge	= \$ 1,700.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$ 2,750.00

#### **Hearing Session Fees and Assessments**

The Panel has assessed hearing session 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:

One (1) Pre-hearing session with Panel @ \$1,125.00	= \$ 1,125.00
Pre-hearing conference: April 13, 2010	1 session
Five (5) Hearing sessions @ \$1,125.00	= \$ 5,625.00
Hearing Dates: September 28, 2010	2 sessions
September 29, 2010	2 sessions
September 30, 2010	1 session
<b>Total Hearing Session Fees</b>	<b>= \$ 6,750.00</b>

1. The Panel has assessed \$3,375.00 of the hearing session fees to Claimant.
2. The Panel has assessed \$3,375.00 of the hearing session fees to Morgan Stanley.

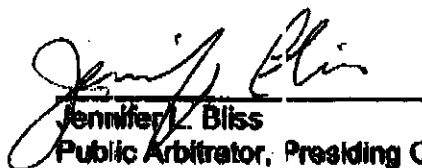
All balances are payable to FINRA Dispute Resolution and are due upon receipt.

**ARBITRATION PANEL**

Jennifer L. Bliss	-	Public Arbitrator, Presiding Chairperson
John J. Henry	-	Public Arbitrator
Orestes J. Mihaly	-	Non-Public Arbitrator

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.

**Concurring Arbitrators' Signatures**

  
\_\_\_\_\_  
Jennifer L. Bliss  
Public Arbitrator, Presiding Chairperson

10/04/2010  
\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
John J. Henry  
Public Arbitrator

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

\_\_\_\_\_  
Orestes J. Mihaly  
Non-Public Arbitrator

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

October 5, 2010  
\_\_\_\_\_  
Date of Service (For FINRA Dispute Resolution use only)

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