

**Award**  
**NASD Regulation, Inc.**

**In the Matter of the Arbitration Between:**

**James Timothy Peterson vs. Morgan Stanley Dean Witter, Inc. and Christopher W. Brooks**

**Case Number:** 99-1728

**Hearing Site:** Detroit, Michigan

**REPRESENTATION OF PARTIES**

Claimant, James Timothy Peterson ("Peterson"), hereinafter referred to as "Claimant": David M. Foster, Esq., Farmington Hills, Michigan.

Respondents, Morgan Stanley Dean Witter, Inc. ("MSDW") and Christopher W. Brooks ("Brooks"), hereinafter collectively referred to as "Respondents": Ronald E. Wood, Esq., Morgan Stanley Dean Witter, Inc., San Francisco, California.

**CASE INFORMATION**

Statement of Claim filed on or about: April 7, 1999

Claimant's correspondence clarifying damages filed on or about: November 30, 1999

Claimant signed the Uniform Submission Agreement: March 31, 1999

Statement of Answer filed by Respondents on or about: January 21, 2000

Respondent, MSDW, signed the Uniform Submission Agreement: May 24, 2000

Respondent, Brooks, signed the Uniform Submission Agreement: May 22, 2000

Claimant's Request for Sanctions filed on or about: July 13, 2000

**CASE SUMMARY**

Claimant asserted the following: Respondent failed to give Claimant a "reasonable time" or written notice pursuant to NYSE Rule 431(K)(6) to meet a margin call when Respondent "MSDW" unnecessarily sold six (6) stocks owned by Claimant on October 6, 1998, to meet a margin call.

Claimant further alleged that, at the time these stocks were sold, Claimant had more than enough equity in a joint account with his father at "MSDW" to meet the margin call, more than enough money in his line of credit to meet the margin call and more than enough money in his checking account to meet the margin call. Claimant asserted that these six (6) stocks, if owned today, are worth \$42,000.00 more than on October 6, 1998.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted that this case is about a young man's frustration at having overextended himself and being unable to find a way out. Respondents alleged that Claimant opened an account with MSDW in April 1998, after two years of active trading, including trading on margin, at Olde Discount brokerage.

Respondents alleged that, shortly after opening his MSDW account, and with the aide of his former roommate/broker, Claimant took a substantial margin position in Northwest Airlines. Respondents alleged that Claimant, in early October 1998, rolled his investment, including his substantial margin leverage, from Northwest to Cisco Systems, Inc., and when the market turned, Claimant was caught short, without resources to maintain his margin position. Respondents averred that rather than depositing more cash or selling off securities to repay what he had borrowed, Claimant chose to sell. Respondents stated that Claimant's express instruction to liquidate his securities positions precludes any recovery in this case.

### **RELIEF REQUESTED**

Claimant requested \$8,000.00 in compensatory damages and rescission. At hearing Claimant did not request a specific dollar amount in damages.

Respondents requested unspecified relief.

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

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.

Claimant's Request for Sanctions was denied at hearing.

Respondents' oral Motion for Directed Verdict was denied at hearing.

### **AWARD**

After considering the pleadings, the testimony and evidence presented at the hearing, the Arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

- 1.) Claimant's claims, each and all, are denied with prejudice;
- 2.) That other than Forum Fees which are specified below, the parties shall each bear their own costs and expenses incurred in this matter;
- 3.) That any relief not specifically enumerated, including punitive damages is hereby denied with prejudice.

### **FEES**

Pursuant to the Code, the following fees are assessed:

### **Filing Fees**

NASD Regulation, Inc. will retain or collect the non-refundable filing fees for each claim:

Initial claim filing fee = \$ 75.00

### **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 person(s) at the time of the event(s) giving rise to the dispute. In this matter, the member firm is a party.

Member surcharge = \$300.00

### **Adjournment Fees**

Adjournments requested during these proceedings: N/A

### **Forum Fees and Assessments**

The Arbitrator 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, that lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) Pre-hearing session with a single arbitrator x \$250.00 = \$ 250.00

Pre-hearing conference: May 25, 2000 1 session

Three (3) Hearing sessions x \$250.00 = \$ 750.00

Hearing Date: June 17, 2000 3 sessions

Total Forum Fees = \$1,000.00

The Arbitrator has assessed \$500.00 of the forum fees to James Timothy Peterson.

The Arbitrator has assessed \$500.00 of the forum fees jointly and severally to Morgan Stanley Dean Witter, Inc., and Christopher W. Brooks.

### **Fee Summary**

Claimant, James Timothy Peterson, be and hereby is solely liable for:

Initial Filing Fee = \$ 75.00

Forum Fees = \$ 500.00

Total Fees = \$ 575.00

Less payments = \$ 325.00

Balance Due NASD Regulation, Inc. = \$ 250.00

Respondent, Morgan Stanley Dean Witter, Inc., be and hereby is solely liable for:

Member Fees = \$ 300.00

Total Fees = \$ 300.00

Less payments = \$ 0.00

Balance Due NASD Regulation, Inc. = \$ 300.00

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Respondents, Morgan Stanley Dean Witter, Inc. and Christopher W. Brooks, be and hereby are jointly and severally liable for:

Fee Type	= \$ 500.00
<u>Less payments</u>	<u>= \$ 0.00</u>
Balance Due NASD Regulation, Inc.	= \$ 500.00

All balances are due to NASD Regulation, Inc.

**Concurring Arbitrator's Signature**

  
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Matthew W. Schlegel, Esq.  
Public Arbitrator, Presiding Chair

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

\_\_\_\_\_  
Date of Service (For NASD office use only)