

Award
NASD Regulation, Inc.

In the Matter of the Arbitration Between:

Jerold Livingston and Lenora Livingston, Trustees for the Benefit of the Livingston Trust,
Claimants vs. Morgan Stanley Dean Witter, Gregory Vaughn and Daniel Weiner, Respondents.

Case Number: 99-02075

Hearing Site: San Francisco, CA

REPRESENTATION OF PARTIES

Claimants, Jerold Livingston and Lenora Livingston, Trustees for the Benefit of the Livingston Trust, (hereinafter collectively referred to as "Claimants"): Jeffrey Denis Ferentz, Esq., Grrenbaum & Ferentz, LLP, 500C Newport Center Drive, Suite 100, Newport Beach, CA 92660.

Respondent, Morgan Stanley Dean Witter, (hereinafter referred to as "Respondent Morgan Stanley"): Steven Brick, Esq., Orrick, Herrington & Sutcliffe, LLP, Old Federal Reserve Bank Building, 400 Sansome Street, San Francisco, CA 94111.

Respondents, Gregory Vaughn and Daniel Weiner, (hereinafter referred to as "Respondents Vaughn and Weiner"): Gilbert R. Serota, Esq., Howard, Rice, Nemerovski, Falk & Rabkin, Three Embarcadero Center, San Francisco, CA 94111.

CASE INFORMATION

Statement of Claim filed on or about: May 6, 1999

Claimants signed the Uniform Submission Agreement: April 28, 1999

Statement of Answer filed by Respondent, Morgan Stanley on or about: August 31, 1999

Statement of Answer filed by Respondents on or about: September 1, 1999

CASE SUMMARY

Claimants asserted the following causes of action: Unsuitability; breach of fiduciary duty; failure to supervise; breach of duty; respondeat superior; aiding and abetting; negligent misrepresentation; ommissions and; breach of various state and federal securities laws. The claims arise form the structure of a put option transaction recommended and implemented by Respondent Morgan Stanley and Respondents Vaughn and Weiner.

Unless specifically admitted in its Answer, Respondent Morgan Stanley denied the allegations made in the Statement of Claim and asserted the following defenses: Respondent Morgan Stanley did not breach any duty to the Claimants under state and federal securities laws; the investments at issue were suitable; no culpable misrepresentations or ommissions were made; Respondent,

Morgan Stanley did not act as a fiduciary to the Claimants and; the damages complained of were due to Claimants' failure to mitigate.

Unless specifically admitted in their Answer, Respondent Vaughn and Weiner denied the allegations made in the Statement of Claim and asserted the following defenses: The claims are barred by the doctrines of waiver, estoppel, and assumption of the risk; the claims are barred by the doctrine of ratification; each claim which is based on any provisions of NASD or NYSE regulations fails to state a private cause of action; each claim that asserts misrepresentation or omissions is barred by the absence of reasonable reliance and; Claimants alleged damages are barred by the absence of actual damage, failure to mitigate and the fact that the damages were allegedly not the result of any actions or omissions committed by Respondents Vaughn and Weiner.

RELIEF REQUESTED

Claimants requested:

Compensatory Damages	\$70,000,000
Punitive Damages	In an amount determined by the Panel.
Interest	Margin interest, pre-judgment and post-judgment.
Attorneys' Fees	By reason of California Civil Code Section 1717.
Other Costs	Costs of unwinding the collar investment, and costs of suit.
Other Monetary	Damages for stress and emotional distress, and any other relief the Panel deems just and proper.

Respondent, Morgan Stanley, requested:

Attorneys' Fees	Reasonable attorneys fees
Other Costs	Reasonable costs.
Other Monetary	For such further relief as the Panel deems appropriate.

Respondents, Vaughn and Weiner, requested:

Attorneys' Fees	Reasonable attorneys fees
Other Costs	Reasonable costs.
Other Non-Monetary	Expungement of the Central Registration Depository ("CRD") records of Respondents Vaughn and Weiner.

OTHER ISSUES CONSIDERED AND DECIDED

Respondent Morgan Stanley and Respondents Vaughn and Weiner did not file with the NASD Regulation, Inc. Office of Dispute Resolution a properly executed submission to arbitration, but are required as a member and Associated Person of the NASD, to submit to arbitration pursuant to the Code, and having answered the claim, appeared and testified at the hearing, are 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 determined, following the presentation of Claimants' case-in-chief and testimony given by Respondents Vaughn and Weiner, the full and final resolution of the issues submitted. The Panel's determination is as follows:

1. The Motion to Dismiss made on behalf of Respondent Morgan Stanley and Respondents Vaughn and Weiner was granted at the conclusion of the Claimants' case-in-chief.
2. All other claims were dismissed in their entirety.
3. The Motion to Expunge the NASD Central Registration Depository ("CRD") records of Respondents Vaughn and Weiner was denied.
4. The Motion to Expunge made on behalf of individual Respondents who were dismissed from the case prior to the arbitration hearing was granted. The previously dismissed Respondents are: John McQueen Binney, Jonathan Ira Jaffe, Mark Andrew Neuberger, Christopher Foley, William Thomas Clark, Jr., and Christopher Stuart Seery. Accordingly, the Panel recommends the expungement of all reference to the claims in the above captioned arbitration from the registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 99-09, the previously dismissed Respondents must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive as to the unauthorized trading claims.

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 = \$600

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. In this matter, the member firm is a party.

Member surcharge = \$3600

Pre-hearing process fee = \$ 600

Hearing process fee = \$5000

Total Member Fees = \$9200

Forum Fees and Assessments

The Panel assesses forum fees for each hearing session conducted. A hearing 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 x \$1200 = \$2400

Pre-hearing conferences: April 4, 2000 1 session

May 15, 2000 1 session

Ten (10) Hearing sessions x \$1200 = \$12,000

Hearing Dates: June 12, 2000 2 sessions

June 13, 2000 2 session

June 14, 2000 2 session

June 15, 2000 2 session

June 16, 2000 2 session

Total Forum Fees = \$14,400

The Panel has assessed \$7200 of the forum fees to Claimants.

The Panel has assessed \$7200 of the forum fees jointly and severally to Respondents Morgan Stanley, Vaughn and Weiner.

Fee Summary

Claimants are hereby is solely liable for:

Initial Filing Fee	= \$ 600
Forum Fees	= \$ 7200
Total Fees	= \$ 7800
<u>Less payments</u>	<u>= \$ 1800</u>
Balance Due NASD Regulation, Inc.	= \$ 6000

Respondent, Morgan Stanley is hereby solely liable for:

Member Fees	= \$ 9200
Total Member Fees	= \$ 9200
<u>Less payments</u>	<u>= \$ 9200</u>
Balance due NASD Regulation, Inc.	= \$0

Respondents Morgan Stanley, Vaughn and Weiner are jointly and severally liable for:

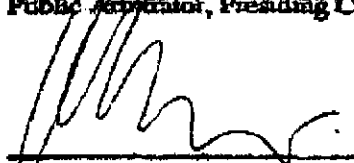
Forum Fees	= \$7200
Total Fees	= \$7200
<u>Less Payments</u>	<u>= \$0</u>
Balance Due NASD Regulation, Inc.	= \$7200

All balances are due to NASD Regulation, Inc. and are payable within 30 days of the service date of this Award.

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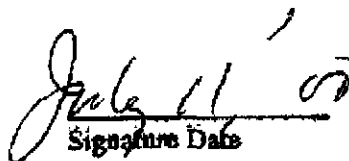
Concurring Arbitrators' Signatures

Samuel R. Freeman, Esq.
Public Arbitrator, Presiding Chair



Robert L. Liu, Esq.
Public Arbitrator

Signature Date



Signature Date

Elizabeth J. Kabanek
Industry Arbitrator

Date Served:
JUL 13 2000

Signature Date

Date of Service (For NASD office use only)

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7-11-00
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