

Award
NASD Regulation, Inc.

In the Matter of the Arbitration Between:
Anthony Gioffre, Claimant vs. Morgan Stanley Dean Witter & Co., Respondent.

Case Number: 99-02675

Hearing Site: Columbus, Ohio

REPRESENTATION OF PARTIES

Claimant, Anthony Gioffre, hereinafter referred to as "Claimant", was represented by Phillip D. Lehmkuhl, Esq., of Mount Vernon, Ohio.

Respondent, Morgan Stanley Dean Witter & Co., hereinafter referred to as "Respondent", was represented by Edward W. Larkin, Esq., of New York, New York.

CASE INFORMATION

Statement of Claim filed on or about: June 11, 1999
Claimant signed the Uniform Submission Agreement: March 23, 1999
Statement of Answer filed by Respondent on or about: September 10, 1999
Respondent did not sign the Uniform Submission Agreement.

CASE SUMMARY

Claimant asserted the following causes of action: Violations of Section 10(b) and Rule 10b-5; violations of the Ohio Securities Act; common law fraud; breach of fiduciary duty; breach of written contract; negligence; and gross negligence. The causes of action relate to the transactions involving Keravision, Inc. stock.

Unless specifically admitted in its Answer, Respondent denied the allegations made in the Statement of Claim and asserted the following defenses: waiver; failure to mitigate; ratification; laches; estoppel; and failure to comply with applicable statutes of limitations.

RELIEF REQUESTED

Claimant requested:

Compensatory Damages
Punitive Damages

\$42,150.09
\$unspecified

Interest	\$unspecified
Attorneys' Fees	\$unspecified
Other Costs	\$unspecified

Respondent requested:

Costs	\$unspecified
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Other Monetary/Non-Monetary Relief if any: Respondent requested that all claims be dismissed with prejudice.

OTHER ISSUES CONSIDERED AND DECIDED

Respondent did not file with the NASD Regulation, Inc. Office of Dispute Resolution a properly executed submission to arbitration but is required to submit to arbitration pursuant to the Code and, having answered the claim, appeared and set forth a defense 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, and the post-hearing submissions (if any), the Panel has decided in full and final resolution of the issues submitted for determination as follows:

The Panel finds in favor of the Claimant, and awards \$22,000 in compensatory damages. The Panel further awards interest in the amount of 10% per annum, accruing from May 9, 2000 until the time the above award is paid. Additionally, the Panel awards \$6,300 in attorney's fees.

Any and all relief not specifically addressed herein, including punitive [treble] damages, is denied.

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	= \$175
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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(s) 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 Morgan Stanley Dean Witter & Co.

Member surcharge	= \$ 800
Pre-hearing process fee	= \$ 600
Hearing process fee	= \$1,000

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 arbitrator(s), including a pre-hearing conference with the arbitrator(s), that lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) Pre-hearing session with Panel x \$600 = \$ 600
Pre-hearing conference: January 12, 2000 1 session

Two (2) Hearing sessions x \$600 = \$1,200

Hearing Date: May 9, 2000 2 sessions

Total Forum Fees = \$1,800

The Panel has assessed \$1,800 of the forum fees to Respondent, Morgan Stanley Dean Witter & Co.

Fee Summary

1. Claimant, Anthony Gioffre, be and hereby is solely liable for:

Initial Filing Fee	= \$ 175
Total Fees	= \$ 175
Less payments	= \$ 1,600
Balance Due NASD Regulation, Inc.	= \$(1,425)

NASD Regulation Inc. will refund the above amount to Claimant. The Panel assessed all costs against Respondent. Because the NASD does not refund the initial filing fee, Respondent must reimburse Claimant \$175.

2. Respondent, Morgan Stanley Dean Witter & Co., be and hereby is solely liable for:

Member Fees	= \$ 800
Forum Fees	= \$1,800
Pre-Hearing Process Fees	= \$ 600

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<u>Hearing Process Fees</u>	= \$1,000
<u>Total Fees</u>	= \$4,200
<u>Less payments</u>	= \$2,400
<u>Balance Due NASD Regulation, Inc.</u>	= \$1,800

With the exception of the \$175 filing fee reimbursement, payable directly to Claimant, all balances are due to NASD Regulation, Inc.

Concurring Arbitrators' Signature(s)

Thomas R. Skulina, Esq.
Public Arbitrator, Presiding Chair

Signature Date

Dennis C. Belli, Esq.
Public Arbitrator

Signature Date


Willis E. Adams, II
Industry Arbitrator

5/23/00
Signature Date

Date of Service (For NASD office use only)

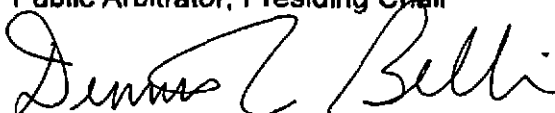
<u>Hearing Process Fees</u>	= \$1,000
<u>Total Fees</u>	= \$4,200
<u>Less payments</u>	= \$2,400
<u>Balance Due NASD Regulation, Inc.</u>	= \$1,800

With the exception of the \$175 filing fee reimbursement, payable directly to Claimant, all balances are due to NASD Regulation, Inc.

Concurring Arbitrators' Signature(s)

Thomas R. Skulina, Esq.
Public Arbitrator, Presiding Chair

Signature Date



Dennis C. Belli, Esq.
Public Arbitrator

05-23-00
Signature Date

Willis E. Adams, II
Industry Arbitrator

Signature Date

Date of Service (For NASD office use only)

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Balance Due NASD Regulation, Inc.	= \$1,800

With the exception of the \$175 filing fee reimbursement, payable directly to Claimant, all balances are due to NASD Regulation, Inc.

Concurring Arbitrators' Signature(s)



Thomas R. Skulina, Esq.
Public Arbitrator, Presiding Chair

5-28-00

Signature Date

Dennis C. Belli, Esq.
Public Arbitrator

Signature Date

Willis E. Adams, II
Industry Arbitrator

Signature Date

Date of Service (For NASD office use only)