

Award
NASD Dispute Resolution, Inc.

In the Matter of the Arbitration Between:

Name of the Claimant
Thaddeus Wong

Case Number: 01-03978

Name of the Respondents
Morgan Stanley Dean Witter, Inc.
and John S. Spillane

Hearing Site: Chicago, Illinois

REPRESENTATION OF PARTIES

Claimant Thaddeus Wong ("Wong") was represented by Andrew J. Stoltmann, Esq. of the firm Koeller Hargett & Caruso located in Chicago, Illinois.

Respondents Morgan Stanley Dean Witter, Inc. ("Morgan Stanley") and John S. Spillane ("Spillane"), hereinafter collectively referred to as "Respondents" were represented by Eric Chid, Esq. of the firm Lewitas & Associates located in Chicago, Illinois.

CASE INFORMATION

Statement of Claim filed on or about: July 26, 2001.

Claimant Wong signed the Uniform Submission Agreement: July 08, 2001.

Statement of Answer filed by Respondents on or about: December 03, 2001.

Respondent Morgan Stanley signed the Uniform Submission Agreement: November 27, 2001.

Respondent Spillane signed the Uniform Submission Agreement: September 19, 2001.

CASE SUMMARY

Claimants Wong asserted the following causes of action: Violation of State Securities Laws; Violation of Conduct Rules of the NASD; Breach of Contract; Common Law Fraud and Misrepresentation; Breach of Fiduciary Duty and Constructive Fraud; Respondent Superior; and Negligence and Negligent Supervision.

The causes of action relate to the purchase of Ariba, Covad Communications, Sycamore Networks and Entrust Technologies stocks, among others.

Unless **specifically** admitted in their Answer, Respondents denied the allegations made in the Statement of **Claim** and asserted the following defenses:

- Any **fiduciary** or other duty owed by Respondents was properly discharged;
- Respondents lacked the **requisite** scienter to be liable for any injury claimed by Claimant;
- Any purported reliance by **Claimant** upon statements or acts by Respondents was unreasonable;
- Claimant authorized or ratified **all** trades effected in his account;
- **By** authorizing or ratifying **all** trades effected in his account, Claimant waived his right to claim injury from subsequent market activity;
- Morgan Stanley reasonably supervised **Spillane** during the period covered by Claimant's **Statement** of Claim. Any supervisory omissions resulted from Claimant's **willful** deception of Morgan Stanley management;
- Any injury Claimant suffered resulted **from** market acts and events beyond Morgan Stanley's control or influence, or from Claimant's own negligence; and
- Respondents **reserved the** right to add additional affirmative defenses based on information learned **during** the discovery process, or adduced at any hearing in this matter.

RELIEF REQUESTED

Claimant Wong requested:

Compensatory Damages	\$1,076,218.00
Punitive Damages	Unspecified
Margin Interest	\$16,322.00
Statutory Interest	10% annually, pre/post award
Attorneys' Fees	Unspecified
Other Costs	Unspecified

Respondents requested:

Attorneys' Fees	Unspecified
Other Costs	Unspecified
Other Monetary/Non-Monetary Relief if any:	Expungement of Spillane's CRD record and an order that Claimant be ordered to deliver a copy of the panel's award to all media outlets to whom they commented about this proceeding, including but not limited to the Chicago Tribune and Business Week magazine.

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OTHER ISSUES CONSIDERED AND DECIDED

During the hearing session held on February 24, 2003 Claimant withdrew all claims from his statement of claim except for the following:

- Excessive Trading;
- Common Law Negligence; and
- *Respondent Superior*.

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. Morgan Stanley Dean Witter, Inc. and John S. Spillane are jointly and severally liable for and shall pay to Thaddeus Wong the sum of **\$334,280.00** as compensatory damages, plus interest at the rate of 10% per annum beginning to accrue on **July 12, 2001** and ceasing to accrue upon payment of the award.
2. Morgan Stanley Dean Witter, Inc. and John S. Spillane are jointly and severally liable for and shall pay to Thaddeus Wong the sum of **\$25,000.00** as attorney's fees. After review of the pleadings and arguments the Panel finds sufficient authority for awarding attorney's fees.
3. Morgan Stanley Dean Witter, Inc. and John S. Spillane are jointly and severally liable for and shall pay to Thaddeus Wong the sum of **\$6578.00** as costs. After review of the pleadings and arguments the Panel finds sufficient authority for awarding costs,
4. Morgan Stanley Dean Witter, Inc. and John S. Spillane are jointly and severally liable for and shall pay to Thaddeus Wong the sum of **\$500.00** as reimbursement of the NASD's non-refundable filing fee.
5. The arbitrator directs the expungement from Respondent John S. Spillane's registration records maintained by NASD Central Registration Depository ("CRD") of all reference to all claims asserted in this matter, except for the claim of negligence, with the understanding that pursuant to NASD Notice to Members 99-09, Respondent John S. Spillane must obtain confirmation from a court of competent jurisdiction before NASD will execute the expungement directive.
6. Except as specified herein, parties shall bear their own costs.
7. Any and all relief not specifically addressed herein, including punitive damages, is denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

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

Initial claim filing fee = \$ 500.00

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 at the time of the events giving rise to the dispute. Accordingly, Morgan Stanley Dean Witter, Inc. and John S. Spillane is a party.

Member surcharge = \$2,500.00
Pre-hearing process fee = \$ 600.00
Hearing process fee = \$4500.00

Forum Fees and Assessments

The Panel has assessed forum 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 a single arbitrator at \$450.00 = \$ 450.00

Pre-hearing conference: February 12, 2003 1 session

One (1) Pre-hearing session with Panel at \$1,200.00 = \$ 1,200.00

Pre-hearing conference: July 12, 2002 1 session

Seven (7) Hearing sessions at \$1,200.00 = \$ 8,400.00

Hearing Dates: February 24, 2003 2 sessions
February 25, 2003 2 sessions
February 26, 2003 2 sessions
February 27, 2003 1 session

Total Forum Fees = \$10,050.00

The Panel has assessed \$10,050.00 of the forum fees to Morgan Stanley Dean Witter, Inc.

FEE SUMMARY

1. Claimant **Thaddeus Wong** is solely liable for:

Initial **Filing Fee** = \$ 500.00

Total Fees = \$ 500.00

Less **payments** = \$ 1,700.00

Refund Due from NASD Dispute Resolution, Inc. = \$ 1,200.00

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2. Respondent Merrill Lynch Pierce Fenner & Smith, Inc. is solely liable for:	
Member Fees	= \$ 7,600.00
Forum Fees	= \$10,050.00
Total Fees	= \$17,650.00
Less payments	\$ 7,600.00
Balance Due NASD Dispute Resolution, Inc.	= \$10,050.00


All balances are payable to NASD Dispute Resolution, Inc. and are due upon receipt pursuant to Rule 10330(g) of the Code.

ARBITRATION PANEL


Anita M. Rowe, Esq.
 Rev. David J. Langseth
 Carmen P. Michelotti

Public, Presiding Chairperson
 Public Arbitrator
 Non-Public Arbitrator

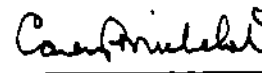
Concurring Arbitrators' Signatures


 Anita M. Rowe, Esq.
 Public Arbitrator, Presiding Chairperson

02/27/03
 Signature Date


 Rev. David J. Langseth
 Public Arbitrator

02/27/03
 Signature Date


 Carmen P. Michelotti
 Non-public Arbitrator

2/27/2003
 Signature Date

February 27, 2003
 Date of Service (For NASD Dispute Resolution office use only)