

Morgan Stanley Dean Witter to Pay \$1.7 Million Award for Improper Investment.

Source: Knight Ridder/Tribune Business News

Publication Date: 01/28/2003

Ads by Google

Magazine Browse a huge selection now. Find exactly what you want today

Prepare to be Shocked You may be younger than you think. Take the RealAge test and find out.

LIFE Magazine 1936-2000 The Original LIFE magazine site. High Quality; Low prices; 4th Free

Are You a Slacker Mom? 15 fun questions that will tell you what type of parent you are!

COPYRIGHT 2003 Knight-Ridder/Tribune Business News

By Deborah Lohse, San Jose Mercury News, Calif. Knight Ridder/Tribune Business News

Jan. 28--Arbitrators ordered Morgan Stanley Dean Witter to pay \$1.7 million to a former San Francisco employee of America Online to resolve her complaint that her broker cost her millions of dollars by improperly investing her money in risky securities.

The award is one of the largest such payouts ever in the Bay Area and comes as a record number of investors have filed broker complaints after the bursting of the tech-stock bubble.

"Those who suffered are just starting to hit the arbitration process now," said Cary Lapidus, a San Francisco attorney whose client received the award Friday.

The three-person arbitration panel, as is customary, did not disclose why it chose to award the employee, Meikle Hall, only \$1.7 million out of the \$4 million that she claimed she lost.

According to a summary of the complaint, Hall exercised about \$10 million worth of AOL stock options in late 1998 and early 1999, paying roughly \$50 a share and holding on to most of the stock instead of immediately selling it.

She then asked her broker to handle her portfolio, selling the shares as needed to help meet her and her family's "conservative investment objectives," the complaint says.

The broker persuaded Hall and her husband, William, to use the AOL shares in a highly complex arrangement known as a "prepaid forward contract," which cost them \$1.2 million in interest over 18 months.

Such contracts are typically used to free up cash by people who own a lot of stock but can't or don't want to sell it for tax or other reasons. Lapidus said his clients didn't need or want such a complicated arrangement.

The broker, Joseph Schlater of Morgan Stanley's Beverly Hills office, then invested the proceeds from the forward contract, roughly \$5 million, in risky tech and telecommunications stocks, the complaint says. He magnified the risk by borrowing money against the account's assets, earning \$172,000 in margin interest for the firm on top of \$142,000 in trading commissions.

Schlater could not be reached for comment Monday, and Morgan Stanley declined to comment.

But Morgan Stanley argued during the arbitration proceedings that the Halls knew what they were doing, in part because they got a legal opinion from Wilson Sonsini Goodrich & Rosati before entering into the prepaid forward contract.

The ruling comes at a time when investors have brought a record number of complaints against their brokers. Last year, investors filed 7,088 arbitration cases through the securities industry regulator, NASD. This year will break that record, NASD says.

Arbitration is a dispute resolution system that most brokerages require clients to agree to use to settle disputes. The majority of arbitration complaints are settled before arbitrators reach a decision.

The \$1.7 million award received by the Halls is one of "less than a dozen" such awards greater than \$1

million in the Bay Area, according to Richard Ryder, president of Securities Arbitration Commentator, which collects arbitration data.

Some lawyers are hoping the Morgan Stanley award signals that arbitrators will be sympathetic to the flood of claims that brokers overinvested their clients in tech stocks or failed to diversify the portfolios of employees who exercised their stock options.

But so far, the statistics aren't showing any spike in pro-investor awards. In 2002, 55 percent of the 1,483 cases that went to a final arbitration verdict, rather than being settled or dismissed, awarded some money to the investor, according to NASD data. That's comparable with 53 percent of the rulings in favor of investors in 2000 and 2001, and 61 percent in favor of them in 1999.

To see more of the San Jose Mercury News, or to subscribe to the newspaper, go to <http://www.mercurynews.com>.

(c) 2003, San Jose Mercury News, Calif. Distributed by Knight Ridder/Tribune Business News.

MWD, AOL,

COPYRIGHT 2003 Knight-Ridder/Tribune Business News

See more articles from Knight Ridder/Tribune Business News