

GHOULS

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In my opinion, they don't fear God; they don't believe in karma; but according to their new advertising campaign they are "World Wise," whatever that means. Morgan Stanley has frequently been in my crosshairs here in the *Markowski Monthly* and on the radio show, and I have used various colorful adjectives to describe my feelings about the firm; however, this month they out did themselves. Morgan Stanley's conduct can only be described as being **ghoulish**.

Think I am being too harsh...Read on!

The National Association of Securities Dealers stated that Morgan Stanley used the September 11, 2001 attack as an excuse for failing to produce millions of emails in hundreds of arbitration claims, even though it was not the case.

The Wall Street Journal reported that in its complaint, the NASD alleges that the brokerage arm of Morgan Stanley falsely claimed millions of emails were destroyed in the 9/11 terrorist attacks on the World Trade Center, where Morgan Stanley had a brokerage operation. The complaint contends that the firm recovered almost all of the emails within days after the attack.

Forbes magazine reported that Morgan Stanley's old Dean Witter email servers had been kept in its World Trade Center offices. Although the servers were destroyed, the firm was able to restore the millions of emails by using back-up tapes. Morgan Stanley repeatedly told regulators and investors involved in arbitration claims that all emails were destroyed. The complaint also says that when Morgan Stanley discovered that back-up copies of emails still existed, "it made the affirmative determination not to preserve the restored messages or the tapes used to restore them on the servers." The NASD also states in its complaint that many arbitrations were concluded between October 2001 and March 2005 "without the benefit of potentially valuable evidence that the firm possessed but falsely denied having."

Since September 11, 2001 Morgan Stanley has been involved in many arbitration cases, regulatory settlements and legal judgments, in which it said it couldn't produce email evidence. This was stated by Jamie Pessin of *The Wall Street Journal*. Morgan Stanley actually had the audacity to tell one Kansas City investor her files were destroyed even though no trades were conducted in her account until October 2001. In 2005 we reported that the firm paid \$15 million to settle a civil lawsuit with the Securities and Exchange Commission over failure to produce tens of thousands of emails during the whole conflict of interest probes. Morgan Stanley, because they withheld the emails, was not included in the billion dollar global settlement with the other big firms. Pretty savvy business decision by the ghouls...rather than pay out hundreds of millions of dollars, just pay the fine for improper email retention (*Another sterling example of Wall Street justice.*)

It's one thing to try to avoid paying off Eliot Spitzer and the regulators, but Morgan Stanley obviously made a calculated choice in giving their already aggrieved clients the middle finger. Due to the nature of the NASD arbitration process, it is nearly impossible for investors to reopen cases after the evidence comes to light. "It's long overdue," stated Charles Austin, an attorney who had a client denied documents to *Forbes* magazine. "**Morgan Stanley repeatedly misrepresented the status and existence of emails and some of the stories they told were patently incredible. What made it particularly offensive is if you so much as questioned the veracity of that representation...you were branded as a cold-hearted person who just didn't understand the trauma of 9/11.**"

Now that I think about it, "**ghoulish**" is too nice, I am sure, you like myself, are thinking of more appropriate terminology.