

Once Again, Who's to Blame for Bubble Mania?

By HOLMAN W. JENKINS, JR.
THE WALL STREET JOURNAL
June 12, 2002
(PFD File)

"All hat and no cattle," is how Don Kempf, the former trial lawyer who runs Morgan Stanley's legal department, describes a recent case blaming his firm for losses in the tech bubble. No, our subject today isn't the pervasiveness of Texas twang as the patois of legal swagger (Mr. Kempf is a Chicago trial lawyer). It's who bears the blame for irrational exuberance. Did we do it to ourselves or was it done to us?

Mr. Kempf just lassoed a telling win for Morgan Stanley at a time when there is a nearly concerted effort to paint the wacky bubble behavior we witnessed with our own eyes as a conspiracy of Wall Street hypnotists. Such was the burden of a hugely credulous New York Times account of the Morgan Stanley lawsuits when they were filed last year. A similar theme was used to bludgeon a \$100 million settlement yesterday out of Merrill Lynch by New York's attorney general.

Let's get the sympathy vote out of the way. The complaints against Morgan Stanley brokers Arun Sardana and Michael Moriarty weren't filed by day traders who bought Amazon with their lunch money and two weeks later ordered the first of their three Porsches. The plaintiffs were Microsoft employees who worked hard and got lucky instead of just getting lucky.

The biggest losses belonged to a Seattle couple, Robin and Mark Alfieri, whose \$11 million in Microsoft stock option wealth mostly disappeared in the tech meltdown while they were receiving advice from Morgan Stanley. But, lo, their case fell flat when heard last month by the usually sympathetic arbitrators of the New York Stock Exchange.

We're interpreting here. Arbitration judges are not required to explain their reasoning. But the award, \$50,000, was hardly enough to cover the plaintiffs' costs, especially after being knocked down later for half the arbitration fees. The ruling also ordered any reference to the complaint expunged from the brokers' records.

Even the Alfieris' lawyer, Jacob Zamansky, who professes to find the outcome "strange," acknowledges that "the brokers did nothing wrong would be a fair characterization of the decision."

It's sad when somebody blows a nest egg, but writ small here is investment folly since time began. Somebody had to supply the \$4 trillion in paper wealth reputedly lost in the bubble. We trust most punters restricted themselves to playing with their mad money (one reason consumer spending barely hiccuped during the late, teensy recession) but some obviously weren't.

Mrs. Alfieri, a sales executive, accumulated her hoard in 15 years with Microsoft. She wanted to retire, buy a \$2 million house and start a magazine business. Such plans would suggest a conservative, wealth-preserving strategy. That's what the Alfieris say they asked for but didn't get from Morgan Stanley. Unfortunately, the evidence presented to arbitrators told a different story.

The Alfieris rejected repeated advice to protect their stake with a "collar" -- a hedging technique that would have protected them against a large loss, albeit at the cost of missing out on any fat gains on the upside. Their decision was tantamount to a big bet that Microsoft would continue to rise -- not an automatically crazy opinion but not one that should be financed with large amounts of borrowing either.

Yet borrow they did rather than sell Microsoft shares to pay taxes and other option-related expenses. They also borrowed to build a stock portfolio, including unsolicited orders to buy Cisco, Sun and other tech shares even as the Nasdaq was collapsing in spring 2000.

Such a strategy was bound to come to grief and it did. When stock prices fell and they were faced with margin calls on their loans, the Alfieris' account went from a net asset value of \$11 million to \$1.6 million in seven months.

To be sure, the case most lovingly detailed in the press, that of John and Sharon Teeples, hasn't been heard yet. It's being handled jointly with claims by six other Microsofties for a total of \$10 million and will be considered by arbitrators in March.

All indications are that Mr. Teeples was a Microsoft believer, too. He declined to "collar" his stake and risk losing an expected appreciation of 20% a year (his estimate). Like the Alfieris, he borrowed to meet his option costs and acquire a portfolio of tech stocks. His outcome was even more ignominious: A \$700,000 option stake became \$403, plus a \$40,000 tax bill.

Overlooked in the Times' rendition, however, is that much of the decline came about because Mr. Teeples withdrew \$280,000 to pay various expenses, including an alleged \$68,000 down payment on a boat called "The Stock Option." His complaint also accuses Morgan Stanley's Mr. Sardana of lying about his academic qualifications but this turns out to be a canard too.

Still, Mr. Zamansky, who is fast emerging as Wall Street's primary nemesis in the dot-com implosion, notes that one arbitration outcome has little bearing on the next. He expects to be running the victory lap when the Teeples case is heard.

Mr. Kempf of Morgan Stanley takes a different view: "It's easy to make flamboyant charges that some in the press pick up on. That's what happened in (the Afieri) case. Our brokers did nothing wrong and we stood by them."

Our view: Unless you are planning to make a career of it, stock picking is a fool's entertainment. The financial marketplace offers plenty of nifty products that allow investors to participate in U.S. business while sleeping at night. We won't criticize those who dabbled in tech shares as a lark, but it's hard to feel sorry for investors who thought they were entitled to year after year of implausible, unprecedented returns on their life savings.

The losers here were presumably at least somewhat savvy about technology. Wall Street may have sins to account for, but the bubble was a collective endeavor. Any storyline that claims otherwise is worse than untrue: It's boring.