

**Award**  
**NASD Dispute Resolution, Inc.**

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In the Matter of the Arbitration Between

Name of Claimant

The Ray Slavin Revocable Trust

Case No. 00-04075

Names of Respondents

Morgan Stanley Dean Witter, Inc.  
J.W. Ray

Hearing Site: Boca Raton, Florida

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**REPRESENTATION OF PARTIES**

For The Ray Slavin Revocable Trust, hereinafter referred to as "Claimant": Robert Wayne Pearce, Esq., Robert Wayne Pearce, P.A., Boca Raton, Florida.

For Morgan Stanley Dean Witter, Inc. ("MSDW") and J.W. Ray ("Ray"), hereinafter also referred to as "Respondents": Peter J. Aldrich, Esq., Peter J. Aldrich, P.A., Palm Beach Gardens, Florida.

**CASE INFORMATION**

Statement of Claim filed on or about: September 14, 2000.

Claimant's Uniform Submission Agreement signed on: August 7, 2000, by Ray and Peg Slavin, Co-Trustees.

Joint Statement of Answer filed by Respondents on or about: December 29, 2000.

Respondents did not file executed Uniform Submission Agreements.

Amended Statement of Claim filed on or about: February 8, 2001.

Joint Statement of Answer to Claimant's Amended Statement of Claim filed by Respondents on or about: March 1, 2001.

**CASE SUMMARY**

Claimant asserted that Respondents violated Chapter 517.301 of the Florida Statutes by mishandling the MSDW account Claimant opened in February, 2000. The cause action relates to the alleged unauthorized purchase and/or sale of shares of stock in various securities including the following: Auto Date Processing; Asianinfo Holdings, Inc.; Aeroflex Incorporated; CMGI, Inc.; Internet Capital Group, Inc.; Usurf America, Inc; Vicinity Corp.; Montana Power Co.; LSI Semi-Conductor, Digital, Inc.; and, Via Systems, Inc.

Unless specifically admitted in their joint Answer, Respondents denied the allegations of wrongdoing contained in the Statement of Claim and the Amended Statement of Claim and maintained that all of the transactions at issue were thoroughly discussed with Claimant, were authorized by Claimant, and effectuated with Claimant's full knowledge and consent.

Respondents further maintained that Claimant's alleged losses were due to market conditions that were beyond Respondents' control.

### **RELIEF REQUESTED**

Claimant requested damages in excess of \$126,419.00, interest, punitive damages, attorneys' fees, costs of these proceedings and such other relief deemed appropriate by the Panel.

Respondents requested a dismissal of all claims against them.

### **OTHER ISSUES CONSIDERED AND DECIDED**

Respondents did not file with NASD Dispute Resolution, Inc. properly executed submissions to arbitration but are required to submit to arbitration pursuant to the NASD Code of Arbitration Procedure (the "Code") and, having answered the claim, appeared and testified at the hearing, are bound by the determination of the Panel on all issues submitted.

### **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. Respondents are found not liable and, therefore, all claims against them are denied.
2. Any and all requests for relief not specifically addressed herein, including Claimant's request for punitive damages, are 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 = \$ 300.00

#### **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(s) at the time of the event(s) giving rise to the dispute. In this matter, the member firm is a party.

Member surcharge	= \$1,500.00
Pre-hearing process fee	= \$ 600.00
Hearing process fee	= \$2,500.00

**Adjournment Fees**

Adjournments requested during these proceedings:

No adjournments were requested during these proceedings.

**Forum Fees and Assessments**

The Panel has the authority to assess 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 the Panel x \$1,125.00 = \$1,125.00  
Pre-hearing conference date: May 16, 2001 1 session

Four (4) Hearing sessions x \$1,125.00	= \$4,500.00
Hearing dates: March 28, 2002	2 sessions
March 29, 2002	2 sessions

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Total Forum Fees	= \$5,625.00
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The Panel has assessed \$2,812.50 of the forum fees to Claimant.

The Panel has assessed \$2,812.50 of the forum fees jointly and severally to Respondents.

**Administrative Costs**

Administrative costs are expenses incurred due to a request by a party for special services including, but not limited to, additional copies of arbitrator awards beyond those provided without charge, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

No administrative costs were incurred during these proceedings.

**Fee Summary**

Claimant be and hereby is solely liable for:

Initial Filing Fee	= \$ 300.00
Forum Fees	= \$2,812.50

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Total Fees	= \$3,112.50
Less payments	= \$1,521.25

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Balance Due NASD Dispute Resolution, Inc.	= \$1,591.25
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Respondent MSDW be and hereby is solely liable for:

Date of Service (For NASD-Dispute Resolution office use only)

Member Fees	= \$4,600.00
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Total Fees	= \$4,600.00
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Less payments	= \$4,600.00
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Balance Due NASD Dispute Resolution, Inc.	= \$ 0.00
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Respondents MSDW and Ray be and hereby are jointly and severally liable for:

Forum Fees	= \$2,812.50
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Total Fees	= \$2,812.50
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Less payments	= \$ 0.00
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Balance Due NASD Dispute Resolution, Inc.	= \$2,812.50
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All balances are due and payable to NASD Dispute Resolution, Inc. immediately upon receipt of the Award by the parties pursuant to Rule 10330(g) of the Code.

#### ARBITRATION PANEL

*Debra*  
~~Deborah~~ A. Byrne-Matthews  
 Gerald S. Berg  
 Don R. Harris

Public/Presiding Chair

Non-Public/Panelist

Public/Panelist

#### Concurring Arbitrators' Signatures

*Debra*  
~~Deborah~~ A. Byrne-Matthews  
 Public Arbitrator, Presiding Chair

Signature Date

Gerald S. Berg  
 Non-Public Arbitrator

Signature Date

Don R. Harris  
 Public Arbitrator

Signature Date

Date of Service (For NASD-Dispute Resolution office use only)

Member Fees = \$4,600.00

Total Fees = \$4,600.00

Less payments = \$4,600.00

Balance Due NASD Dispute Resolution, Inc. = \$ 0.00

Respondents MSDW and Ray be and hereby are jointly and severally liable for:

Forum Fees = \$2,812.50

Total Fees = \$2,812.50

Less payments = \$ 0.00

Balance Due NASD Dispute Resolution, Inc. = \$2,812.50

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**ARBITRATION PANEL**

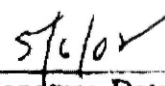
Deborah A. Byrne-Matthews	-	Public/Presiding Chair
Gerald S. Berg	-	Non-Public/Panelist
Don R. Harris	-	Public/Panelist

**Concurring Arbitrators' Signatures**

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Public Arbitrator, Presiding Chair

Signature Date

  
Gerald S. Berg  
Non-Public Arbitrator

  
Signature Date

Don R. Harris  
Public Arbitrator

Signature Date

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Total Fees = \$4,600.00

Less payments = \$4,600.00

Balance Due NASD Dispute Resolution, Inc. = \$ 0.00

Respondents MSDW and Ray be and hereby are jointly and severally liable for:

Forum Fees = \$2,812.50

Total Fees = \$2,812.50

Less payments = \$ 0.00

Balance Due NASD Dispute Resolution, Inc. = \$2,812.50

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**ARBITRATION PANEL**

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Public/Presiding Chair

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Non-Public/Panelist

Don R. Harris

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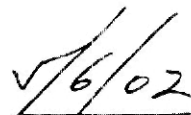
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Signature Date

Gerald S. Berg  
Non-Public Arbitrator

Signature Date



Don R. Harris  
Public Arbitrator

Signature Date

Date of Service (For NASD-Dispute Resolution office use only)