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

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In the Matter of the Arbitration Between:

**Lino and Rozanne Oriella,**  
**Rozanne Zingale Oriella, individually,**  
**Rozanne Z. Oriella, Custodian for Isabella Laura Oreilla UTMA/OH, and**  
**Rozanne Z. Oriella, Custodian for Marco Joseph Oriella UTMA/OH,**  
Claimants

Vs.

**Morgan Stanley Dean Witter, and**  
**Sidhartha Ranjan Sen,**  
Respondents.

Case Number: 00-04111

Hearing Site: Cleveland, Ohio

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**REPRESENTATION OF PARTIES**

Claimants Lino and Rozanne Oriella, Rozanne Zingale Oriella, individually, Rozanne Z. Oriella, Custodian for Isabella Laura Oreilla UTMA/OH, and Rozanne Z. Oriella, Custodian for Marco Joseph Oriella UTMA/OH ("the Oriellas"), hereinafter referred to as Claimants, were represented by Anthony J. Hartman, Esquire, of Hermann, Cahn & Schneider, Cleveland, Ohio.

Respondents Morgan Stanley Dean Witter ("MSDW") and Sidhartha Ranjan Sen ("Sen"), hereinafter collectively referred to as "Respondents," were represented by Ronald E. Wood, Esquire, of Morgan Stanley Dean Witter, San Francisco, California.

**CASE INFORMATION**

The Statement of Claim was filed on or about September 21, 2000.  
Claimants signed the Uniform Submission Agreement on August 15, 2000.

Respondent MSDW filed its Statement of Answer and Motion to Dismiss on or about November 28, 2000.  
Ronald E. Wood signed the Uniform Submission Agreement on behalf of Respondent MSDW on November 22, 2000.

Respondents MSDW and Sen filed their joint First Amended Statement of Answer and

Motion to Dismiss on or about November 28, 2000.

Respondent Sen signed, but did not date, the Uniform Submission Agreement.

### **CASE SUMMARY**

Claimants asserted the following causes of action: breach of fiduciary duty, negligence, fraud, breach of contract and respondeat superior liability. The allegations involved transactions in the following common stocks: Rambus, Metasolv Software, Vignette, Checkpoint Software, Ixnet, JDS Uniphase, Digitas Semiconductor, SAVVIS Communications and Microsoft.

Unless stated otherwise in their joint First Amended Statement of Answer, Respondents denied the allegations set forth in the Statement of Claim and asserted the following affirmative defenses: ratification, waiver, contributory negligence and failure to state a claim.

### **RELIEF REQUESTED**

Claimants requested:

Compensatory Damages	\$ 50,000.00
Punitive Damages	\$100,000.00

Claimants also requested costs and attorney's fees.

Respondents requested that the claims against them be dismissed in their entirety, and that they be awarded costs and fees.

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

At the hearing, Respondents moved for a Directed Verdict. The Motion was denied.

### **AWARD**

After considering the pleadings, the testimony and evidence presented at the hearing, the undersigned Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondent Morgan Stanley Dean Witter is solely liable for, and shall pay to Claimants Lino and Rozanne Oriella, the sum of \$7,000.00 (Seven Thousand Dollars and No Cents) in compensatory damages.
2. All claims filed by Claimants Lino and Rozanne Oriella, Rozanne Zingale Oriella, individually, Rozanne Z. Oriella, Custodian for Isabella Laura Oreilla UTMA/OH, and Rozanne Z. Oriella, Custodian for Marco Joseph Oriella UTMA/OH, against Respondent Sidhartha Ranjan Sen are dismissed with prejudice.

3. Except as otherwise specified herein, each party shall bear its own costs and attorneys' fees.
4. 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 the following non-refundable filing fee:

Initial claim filing fee	= \$ 300.00
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#### **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

#### **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 chairperson x \$450*	= \$ 450.00
Pre-hearing conference: September 14, 2001 1 session	

Two (2) Pre-hearing sessions with the full Panel x \$1,125	= \$2,250.00
Pre-hearing conferences: April 11, 2001 1 session	
September 21, 2001 1 session	

Four (4) Hearing sessions x \$1,125	= \$4,500.00
Hearing Dates: December 17, 2001 3 sessions	
December 18, 2001 1 session	

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Total Forum Fees	= \$7,200.00
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The Panel has assessed forum fees incurred in this arbitration as follows: one third (\$2,400.00) to Claimants and two thirds (\$4,800.00) to Respondent MSDW.

**Fee Summary**

1. Claimants are jointly and severally liable for:

Forum Fees	= \$2,400.00
<u>Initial Filing Fee</u>	= \$ 300.00
Total Fees	= \$2,700.00
<u>Less payments</u>	= \$1,425.00
Balance Due to NASD Dispute Resolution, Inc.	= \$1,275.00

2. Respondent Morgan Stanley Dean Witter, is solely liable for:

Forum Fees	= \$4,800.00
<u>Member Fees</u>	= \$4,600.00
Total Fees	= \$9,400.00
<u>Less payments</u>	= \$4,600.00
Balance Due to NASD Dispute Resolution, Inc.	= \$4,800.00

All balances are due to NASD Dispute Resolution, Inc.

**ARBITRATION PANEL**

<i>Anthony J. Soukenik, Esq.</i>	-	<i>Public Arbitrator, Chairperson</i>
<i>Edward F. Siegel, Esq.</i>	-	<i>Public Arbitrator</i>
<i>Dennis W. Zauszniewski</i>	-	<i>Non-Public Arbitrator</i>

*Anthony J. Soukenik*  
*Anthony J. Soukenik, Esq.*  
Chairperson

January 28, 2002  
Signature Date

*Edward F. Siegel*  
*Edward F. Siegel, Esq.*  
Public Arbitrator

January 28, 2002  
Signature Date

*Dennis W. Zauszniewski*  
*Dennis W. Zauszniewski*  
Non-Public Arbitrator

January 28, 2002  
Signature Date

January 29, 2002  
Date of Service

NASD Dispute Resolution, Inc.  
Arbitration Case #: 00-04111  
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**Fee Summary**

## 1. Claimants are jointly and severally liable for:

Forum Fees	= \$2,400.00
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Total Fees	= \$2,700.00
<u>Less payments</u>	= \$1,425.00
Balance Due to NASD Dispute Resolution, Inc.	= \$1,275.00

## 2. Respondent Morgan Stanley Dean Witter, is solely liable for:

Forum Fees	= \$4,800.00
<u>Member Fees</u>	= \$4,600.00
Total Fees	= \$9,400.00
<u>Less payments</u>	= \$4,600.00
Balance Due to NASD Dispute Resolution, Inc.	= \$4,800.00

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**ARBITRATION PANEL**

Anthony J. Soukenik, Esq.  
Edward F. Siegel, Esq.  
Dennis W. Zauszniewski

- Public Arbitrator, Chairperson  
- Public Arbitrator  
- Non-Public Arbitrator

  
Anthony J. Soukenik, Esq.  
Chairperson

Signature Date

1/28/02

Edward F. Siegel, Esq.  
Public Arbitrator

Signature Date

Dennis W. Zauszniewski  
Non-Public Arbitrator

Signature Date

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

NASD Dispute Resolution, Inc.  
 Arbitration Case #: 00-04111  
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<u>Less payments</u>	= \$1,425.00
Balance Due to NASD Dispute Resolution, Inc.	= \$1,275.00

2. Respondent Morgan Stanley Dean Witter, is solely liable for:

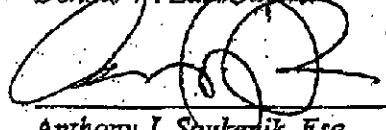
Forum Fees	= \$4,800.00
<u>Member Fees</u>	= \$4,600.00
Total Fees	= \$9,400.00
<u>Less payments</u>	= \$4,600.00
Balance Due to NASD Dispute Resolution, Inc.	= \$4,800.00

All balances are due to NASD Dispute Resolution, Inc.

### ARBITRATION PANEL

Anthony J. Soukenik, Esq.  
 Edward F. Siegel, Esq.  
 Dennis W. Zauszniewski

- Public Arbitrator, Chairperson  
 - Public Arbitrator  
 - Non-Public Arbitrator

  
 Anthony J. Soukenik, Esq.  
 Chairperson

1/28/02  
 Signature Date

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 Edward F. Siegel, Esq.  
 Public Arbitrator

\_\_\_\_\_  
 Signature Date

\_\_\_\_\_  
 Dennis W. Zauszniewski  
 Non-Public Arbitrator

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NASD Dispute Resolution, Inc.  
Arbitration Case #: 00-04111  
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Forum Fees	= \$4,800.00
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Balance Due to NASD Dispute Resolution, Inc.	= \$4,800.00

All balances are due to NASD Dispute Resolution, Inc.

### ARBITRATION PANEL

Anthony J. Soukenik, Esq.	-	Public Arbitrator, Chairperson
Edward F. Siegel, Esq.	-	Public Arbitrator
Dennis W. Zauszniewski	-	Non-Public Arbitrator

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Anthony J. Soukenik, Esq.  
Chairperson

\_\_\_\_\_  
Signature Date

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Edward F. Siegel, Esq.  
Public Arbitrator

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Dennis W. Zauszniewski  
Non-Public Arbitrator

1-28-02  
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