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**Award**  
**NASD Dispute Resolution**

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In the Matter of the Arbitration Between:

Name of the Claimant  
Wolfgang G. Dierschke

Case Number: 02-04592

Name of the Respondent  
Morgan Stanley Dean Witter, Inc.

Hearing Site: Boca Raton, Florida

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Nature of the Dispute: Customer vs. Member.

**REPRESENTATION OF PARTIES**

For Wolfgang G. Dierschke, hereinafter referred to as "Claimant": Adam H. Smith, Esq., Adam H. Smith, P.A., Boca Raton, Florida.

For Morgan Stanley Dean Witter, Inc., hereinafter referred to as "Respondent": Laura J. Starr, Esq., Homer & Bonner, P.A., Miami, Florida.

**CASE INFORMATION**

Statement of Claim filed on or about: August 6, 2002.

Claimant signed the Uniform Submission Agreement: May 17, 2001.

Statement of Answer filed by Respondent on or about: October 22, 2002

Respondent signed the Uniform Submission Agreement: November 12, 2002.

**CASE SUMMARY**

Claimant asserted the following causes of action: negligent supervision; breach of fiduciary duty; violation of Chapters 517.301, 517.211 and 517.241 of the Florida Statutes; and breach of contract. The causes of action relate to the purchases and sales of unspecified technology stocks and investment trusts in Claimant's account.

Unless specifically admitted in its Answer, Respondent denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

**RELIEF REQUESTED**

Claimant requested compensatory damages of \$63,654.48, pre-judgment interest at the legal rate, costs, and any other relief that the Panel deemed just and appropriate.

Respondent requested that all claims asserted by Claimant be denied in their entirety, costs and fees.

**OTHER ISSUES CONSIDERED AND DECIDED**

The parties agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award may be entered.

**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:

The Panel did not find Respondent liable to Claimant on any of the claims alleged in the Statement of Claim.

Any and all claims for relief not specifically addressed herein, including Claimant's request for relief pursuant to Chapters 517.301, 517.211 and 517.241 of the Florida Statutes, are denied.

**FEES**

Pursuant to the NASD Code of Arbitration Procedure (the "Code"), the following fees are assessed:

**Filing Fees**

NASD Dispute Resolution will retain or collect the non-refundable filing fees for each claim:

Initial claim filing fee	= \$ 225.00
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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 firms that employed the associated persons at the time of the events giving rise to the dispute. Accordingly, Respondent is a member firm and a party.

Member surcharge	= \$1,100.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$1,700.00
Total Member Fees	= \$3,550.00

**Adjournment Fees**

Adjournments granted during these proceedings for which fees were assessed:

No adjournment fees were incurred in this matter.

**Injunctive Relief Fees**

Injunctive relief fees are assessed to each member or associated person who files for a temporary injunction in court. Parties in these cases are also assessed arbitrator travel expenses and costs when an arbitrator is required to travel outside his or her hearing location and additional arbitrator honoraria for the hearing for permanent injunction. These fees, except the injunctive relief surcharge, are assessed equally against each party unless otherwise directed by the panel.

No injunctive relief fees were incurred in this matter.

**Forum Fees and Assessments**

The Panel has assessed forum fees for each session conducted. A session is any meeting between the parties and the arbitrators, including a pre-hearing conference with the arbitrators, that lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) Pre-hearing session with a single arbitrator @ \$450.00 = \$ 450.00  
Pre-hearing conference: October 10, 2003 1 session

One (1) Pre-hearing session with the Panel @ \$750.00 = \$ 750.00  
Pre-hearing conference: February 11, 2003 1 session

Four (4) Hearing sessions @ \$750.00 = \$3,000.00  
Hearing Dates: October 28, 2003 2 sessions  
October 29, 2003 2 sessions

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Total Forum Fees = \$4,200.00

The Panel assessed the total forum fees of \$4,200.00 to Claimant.

**Administrative Costs**

Administrative costs are expenses incurred due to a request by a party for special services beyond the normal administrative services. These include, but not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

No administrative costs were incurred in this matter.

**Fee Summary**

Claimant is solely liable for:

Initial Filing Fee	= \$ 225.00
<u>Forum Fees</u>	<u>= \$4,200.00</u>
Total Fees	= \$4,425.00
<u>Less payments</u>	<u>= \$ 975.00</u>
Balance Due NASD Dispute Resolution	= \$3,450.00

Respondent is solely liable for:

<u>Member Fees</u>	<u>= \$3,550.00</u>
Total Fees	= \$3,550.00
<u>Less payments</u>	<u>= \$3,550.00</u>
Balance Due NASD Dispute Resolution	= \$ 0.00

All balances are payable to NASD Dispute Resolution and are due upon receipt pursuant to Rule 10330(g) of the Code.

ARBITRATION PANEL

<i>Seth L. Finkel, Esq.</i>	-	<i>Public Arbitrator, Presiding Chairperson</i>
<i>Harold S. Stern, Esq.</i>	-	<i>Public Arbitrator</i>
<i>Bernard (Bob) L. Loring</i>	-	<i>Non-Public Arbitrator</i>

Concurring Arbitrators' Signatures

<u>/s/</u>	<u>11/05/03</u>
Seth L. Finkel, Esq.	Signature Date
Public Arbitrator, Presiding Chairperson	

<u>/s/</u>	<u>11/05/03</u>
Harold S. Stern, Esq.	Signature Date
Public Arbitrator	


<u>/s/</u>	<u>11/05/03</u>
Bernard (Bob) L. Loring	Signature Date
Non-Public Arbitrator	

11/10/03  
Date of Service (For NASD Dispute Resolution office use only)

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Harold S. Stern, Esq.	-	Public Arbitrator
Bernard (Bob) L. Loring	-	Non-Public Arbitrator

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Seth L. Finkel, Esq.  
Public Arbitrator, Presiding Chairperson

11/5/03  
Signature Date

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Harold S. Stern, Esq.  
Public Arbitrator

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Signature Date

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Bernard (Bob) L. Loring  
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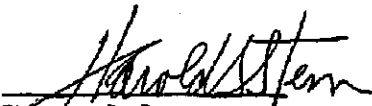
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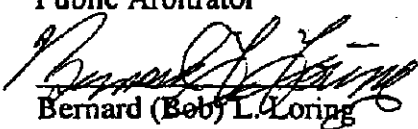
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Public Arbitrator, Presiding Chairperson

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Signature Date

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Harold S. Stern, Esq.  
Public Arbitrator

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

  
Bernard (Bob) L. Loring  
Non-Public Arbitrator

Nov. 5, 2003  
Signature Date

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