

AWARD
NASD Dispute Resolution, Inc.

In the Matter of the Arbitration Between

Name of Claimant

Erlinda S. Olsen

and

01-01065
Minneapolis, Minnesota

Name of Respondent

E*Trade Securities, Inc.

REPRESENTATION OF PARTIES

Erlinda S. Olsen ("**Claimant**") appeared *pro se*.

E*Trade Securities, Inc. ("**Respondent**") was represented by Eric E. Bronson, Esq., Bird Marella Boxer & Wolpert PC, Los Angeles, California.

CASE INFORMATION

The Statement of Claim was filed on or about March 2, 2001. Claimant's Answer to E*Trade's Motion for Summary Judgment or, in the Alternative, Motion to Dismiss was filed on or about September 28, 2001. Submission Agreement of Claimant Erlinda S. Olsen was signed on February 28, 2001.

Statement of Answer was filed by Respondent E*Trade Securities, Inc. on or about April 26, 2001. E*Trade Motion for Summary Judgment or, in the Alternative, Motion to Dismiss was filed on or about August 3, 2001. Respondent E*Trade Securities, Inc.'s Reply to Claimant's Answer to Motion For Summary Judgment or, in the Alternative, Motion to Dismiss was filed on or about October 4, 2001. Submission Agreement of Respondent E*Trade Securities, Inc. was signed on March 22, 2001 by Karen Smith.

CASE SUMMARY

Claimant alleged that on November 17, 2000, Respondent E*Trade Securities, Inc. erroneously and negligently liquidated 476 shares of AOL common stock from her account. Specifically, Claimant alleged:

- On November 12, 2000, my account experienced a house call of \$5,965. I sold 100 shares of Yahoo, plus the market experienced a rally and by the 13th of November I had a buying

power of \$2,467. The open outstanding call was an error that was admitted to be E*Trade in a phone conversation. It is obvious that an account cannot have an open call and buying power at the same time. Hence the house call of November 12th was cleared.

- On November 16th, I pulled and printed another account summary, which showed buying power of \$4,190, obviously no call present on my account. I spoke with a representative of E*Trade who confirmed that the call of the 12th had cleared. I also viewed my account on November 17th and buying power was present.
- I didn't look at my account again until November 19th, at which time it was apparent that liquidation had taken place as it indicates inexplicably, a sell of 476 shares of AOL. It is again obvious that no call was present as the liquidation created a buying power of over \$13,000.

Claimant further alleged that Respondent follows a normal and customary procedure when a customer's account falls below the equity requirement. It was alleged that customers are given three business days to clear a margin call.

Respondent denied the allegations set forth in the Statement of Claim. Respondent specifically stated that it acted entirely within its rights when it liquidated the AOL shares. Respondent stated that the account value had dropped below the 30% requirement at the time of the liquidation. It was further stated that Claimant has not been damaged in any way by the liquidation. Respondent stated that despite knowing the AOL shares had been liquidated, Claimant has not taken any steps to mitigate her alleged damages, even though she could have repurchased AOL shares at below the liquidation price at any time up to the present, except for a brief period of time between January 18 through February 2, 2001.

RELIEF REQUESTED

Claimant requested an award of compensatory damages in the amount of \$23,910.00 and punitive damages in the amount of \$24,000.00

Respondent requested that the Statement of Claim be dismissed in its entirety and that Claimant take nothing by her claim. In addition, Respondent requested that it be awarded its costs in this proceeding.

OTHER ISSUES CONSIDERED & DECIDED

Prior to the commencement of the hearing, Claimant submitted a request for leave to Amend her Claim to add allegations of a recent liquidation in her account. After considering the submissions of the parties and the arguments presented at the commencement of the hearing, the Arbitration Panel

denied the request and directed Claimant to file a new claim if she intends on pursuing the new allegations.

On October 23, 2001, the parties were advised of the Arbitration Panel's decision to deny the Motion for Summary Judgment.

The parties have agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award may be entered. In either case, the parties have agreed to receive conformed copies of the award while the original(s) remain on file with the NASD Dispute Resolution, Inc. (the "NASD").

AWARD

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

1. The claims asserted in this matter shall be and hereby are denied in their entirety.
2. That to the extent not specifically awarded or otherwise provided for above, all other claims and requests for relief by any party hereto are denied with prejudice.
3. Other than the Forum Fees noted below, the parties shall each bear all other costs and expenses incurred by them in connection with this proceeding, including but not limited to attorneys fees.

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 = \$175.00

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 E*Trade Securities, Inc.

Member surcharge	= \$ 800.00
Pre-hearing process fee	= \$ 600.00
Hearing process fee	= \$1,000.00

Forum Fees and Assessments

The Arbitration Panel assesses 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:

Two (2) Pre-hearing session(s) with Panel x \$600.00	= \$1,200.00
Pre-hearing conference(s): August 6, 2001 1 session	
October 23, 2001 1 session	
Four (4) Hearing sessions x \$600.00	= \$2,400.00
Hearing Date(s): November 12, 2001 2 sessions	
<u>November 13, 2001 2 sessions</u>	
Total Forum Fees	= \$3,600.00

The Arbitration Panel has assessed \$1,800.00 of the forum fees to Erlinda S. Olsen.

The Arbitration Panel has assessed \$1,800.00 of the forum fees to E*Trade Securities, Inc.

Fee Summary

Claimant, Erlinda S. Olsen, shall be and hereby is liable for:

Initial Filing Fee	= \$ 175.00
<u>Forum Fees</u>	= <u>\$1,800.00</u>
Total Fees	= \$1,975.00
<u>Less payments</u>	= <u>\$ 625.00</u>
Balance Due NASD Dispute Resolution, Inc.	= \$1,350.00

Respondent, E*Trade Securities, Inc., shall be and hereby is liable for:

Member Fees	= \$2,400.00
<u>Forum Fees</u>	= <u>\$1,800.00</u>
Total Fees	= \$4,200.00
<u>Less payments</u>	= <u>\$1,400.00</u>
Balance Due NASD Dispute Resolution, Inc.	= \$2,800.00

All balances are due to NASD Dispute Resolution, Inc.

ARBITRATION PANEL

Emily F. Seesel – Public Arbitrator, Presiding Chair
Carol A. Ludington - Public Arbitrator
Susan M. Barnes - Non-Public Arbitrator

Concurring Arbitrators:

/s/ Emily F. Seesel
Emily F. Seesel
Public Arbitrator, Presiding Chair

November 26, 2001
Signature Date

/s/ Carol A. Ludington
Carol A. Ludington
Public Arbitrator

November 30, 2001
Signature Date

/s/ Susan M. Barnes
Susan M. Barnes
Non-Public Arbitrator

November 23, 2001
Signature Date


NASD Dispute Resolution, Inc.
Arbitration No. 01-01065
Award Page 5 of 5

NASD Dispute Resolution, Inc.
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ARBITRATION PANEL

Emily F. Seesel – Public Arbitrator, Presiding Chair
Carol A. Ludington - Public Arbitrator
Susan M. Barnes - Non-Public Arbitrator

Concurring Arbitrators:


Emily F. Seesel
Public Arbitrator, Presiding Chair

Nov. 26, 2001
Signature Date

Carol A. Ludington
Public Arbitrator

Signature Date

Susan M. Barnes
Non-Public Arbitrator

Signature Date

NASD Dispute Resolution, Inc.
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Award Page 5 of 5

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Concurring Arbitrators:

Emily F. Seesel
Public Arbitrator, Presiding Chair


Carol A. Ludington
Public Arbitrator

Signature Date

11/30/01
Signature Date

Susan M. Barnes
Non-Public Arbitrator

Signature Date

NASD Dispute Resolution, Inc.
Arbitration No. 01-01065
Award Page 5 of 5

NASD Dispute Resolution, Inc.
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Carol A. Ludington - Public Arbitrator
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Concurring Arbitrators:

Emily F. Seesel
Public Arbitrator, Presiding Chair

Signature Date

Carol A. Ludington
Public Arbitrator

Signature Date

Susan M. Barnes
Susan M. Barnes
Non-Public Arbitrator

11/23/01
Signature Date