

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

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In the Matter of the Arbitration Between:

Albert Pollari, Albert Pollari Trust and Pollari-Wright, Inc., Claimants v. TD Waterhouse Investor Services, Inc., Albert F. Di Pippo and Chris Koulouris, Respondents

Case Number: 01-01158

Hearing Site: San Francisco, California

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**REPRESENTATION OF PARTIES**

For Claimants:

Victor G. Greene, Esq.  
Maynard Law Offices, PC  
Campbell, California

For Respondents:

Cara L. Finan, Esq.  
Julie A. Kole, Esq.  
Keesel, Young & Logan, PC  
San Francisco, California

**CASE INFORMATION**

Statement of Claim filed: March 7, 2001

Claimant Albert Pollari's Uniform Submission Agreement signed: February 16, 2001

Claimant Albert Pollari Trust's Uniform Submission Agreement signed: March 26, 2001

Claimant Pollari-Wright, Inc.'s Uniform Submission Agreement signed: March 26, 2001

Joint Statement of Answer filed by Respondents: May 25, 2001

Respondent TD Waterhouse Investor Services, Inc.'s Uniform Submission Agreement signed:  
June 14, 2001

Respondent Albert Di Pippo's Uniform Submission Agreement signed: June 11, 2001

Respondent Chris Koulouris' Uniform Submission Agreement signed: June 25, 2001

### **CASE SUMMARY**

Claimants alleged breach of contract, error and/or charges, margin calls, negligence, failure to supervise, breach of fiduciary duty, misrepresentation, and omission of facts regarding common stock.

Respondents denied the allegations of wrongdoing set forth in the Claimants' Statement of Claim.

### **RELIEF REQUESTED**

Claimants requested compensatory damages in the sum of \$94,719.73, punitive damages in the sum of \$100,000.00, interest in the sum of \$2,241.75, plus \$12.25 per day thereafter, costs and attorneys' fees.

Respondents requested dismissal of the Claimants' Statement of Claim in its entirety, and requested reimbursement of arbitration costs.

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

On March 25, 2002, the Panel granted Respondents Albert F. Di Pippo's and Chris Koulouris' Motion to Dismiss.

After the Hearing concluded, the Panel granted Claimant's Motion to Allow Post-Hearing Submissions concerning the issue of attorney's fees.

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, testimony, and evidence presented at the hearing, and the post-hearing submissions, the Panel decided in full and final resolution of the issues submitted for determination as follows:

1. Respondent TD Waterhouse Investor Services, Inc. is liable to and shall pay Claimant the sum of \$27,730.80 in compensatory damages.
2. The parties shall bear their respective costs, including attorneys' fees.
3. All other relief not expressly granted is denied.

### **FEES**

Pursuant to the Code, the following fees are assessed:

#### **Filing Fees**

NASD Dispute Resolution, Inc. received or will collect the non-refundable filing fees for each claim as follows:

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

Member fees are assessed to each member firm that is either a party in the matter or an employer of a respondent associated person at the time of the events which gave rise to the dispute, claim, or controversy. Accordingly, the member firm TD Waterhouse Investor Services, Inc. is a party and the following fees are assessed:

Member Surcharge	= \$ 1,500.00
Pre-Hearing Process Fee	= \$ 600.00
<u>Hearing Process Fee</u>	<u>= \$ 2,500.00</u>
<b>Total Member Fees</b>	<b>= \$ 4,600.00</b>

#### **Forum Fees and Assessments**

The Panel assessed a forum fee for each pre-hearing conference or hearing session conducted. A pre-hearing conference and hearing session is any meeting between the parties and the Chair/Panel. The following fees are assessed:

Two (2) Pre-hearing conference sessions with the Panel @ \$1,125.00/session	= \$ 2,250.00
Pre-hearing conferences:	
October 2, 2001	1 session
March 25, 2002	1 session

Three (3) Hearing sessions @ \$1,125.00/session	= \$ 3,375.00
Hearings:	
April 8, 2002	3 sessions

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<b>Total Forum Fees</b>	<b>= \$ 5,625.00</b>
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The Panel assessed \$ 5,625.00 of the forum fees to TD Waterhouse Investor Services, Inc.

**Fee Summary**

1. Claimants, Albert Pollari, Albert Pollari Trust and Pollari-Wright, Inc. are jointly and severally charged with the following fees and costs:

<u>Initial Filing Fee</u>	= \$ 300.00
<u>Total Fees</u>	= \$ 300.00
<u>Less payments</u>	= \$( 1,425.00)
<b>Refund to be Paid by NASD Dispute Resolution, Inc. to Claimants</b>	<b>= \$( 1,125.00)</b>

2. Respondent TD Waterhouse Investor Services, Inc., is charged with the following fees and costs:

<u>Member Fees</u>	= \$ 4,600.00
<u>Forum Fees</u>	= \$ 5,625.00
<u>Total Fees</u>	= \$10,225.00
<u>Less payments</u>	= \$( 5,200.00)
<b>Balance Due NASD Dispute Resolution, Inc.</b>	<b>= \$ 5,025.00</b>

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

**ARBITRATION PANEL**

<i>Paul D. Allen, Esq.</i>	-	<i>Non-Public Arbitrator, Presiding Chair</i>
<i>Anthony T. Ellis</i>	-	<i>Public Arbitrator</i>
<i>David I. Levine, J.D</i>	-	<i>Public Arbitrator</i>

**Concurring Arbitrators' Signatures**

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Paul D. Allen, Esq.  
Chair, Non-Public Arbitrator

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Signature Date

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Anthony T. Ellis  
Public Arbitrator

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Signature Date

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David I. Levine, J.D  
Public Arbitrator

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Signature Date

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Date of Service

**ARBITRATION PANEL**

<i>Paul D. Allen, Esq.</i>	-	<i>Non-Public Arbitrator, Presiding Chair</i>
<i>Anthony T. Ellis</i>	-	<i>Public Arbitrator</i>
<i>David I. Levine, J.D.</i>	-	<i>Public Arbitrator</i>

**Concurring Arbitrators' Signatures**

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Paul D. Allen, Esq.  
Chair, Non-Public Arbitrator

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Signature Date

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*A.T. Ellis*  
Anthony T. Ellis  
Public Arbitrator

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*5/31/02*  
Signature Date

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David I. Levine, J.D.  
Public Arbitrator

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

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*6/4/02*  
Date of Service

**ARBITRATION PANEL**

<i>Paul D. Allen, Esq.</i>	-	<i>Non-Public Arbitrator, Presiding Chair</i>
<i>Anthony T. Ellis</i>	-	<i>Public Arbitrator</i>
<i>David I. Levine, J.D.</i>	-	<i>Public Arbitrator</i>

**Concurring Arbitrators' Signatures**



Paul D. Allen, Esq.  
Chair, Non-Public Arbitrator

5/30/02

Signature Date

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Anthony T. Ellis  
Public Arbitrator

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Signature Date

\_\_\_\_\_  
David I. Levine, J.D.  
Public Arbitrator

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

6/4/02

Date of Service