

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Bernadette M. Blixt, Claimant and Counter-Respondent v. TD Waterhouse Investor Services, Inc., Respondent and Counter-Claimant

Case Number: 01-01847

Hearing Site: Los Angeles, California

REPRESENTATION OF PARTIES

For Claimant/Counter-Respondent:

Bernadette M. Blixt
Pro Se
Oxnard, California

For Respondent/Counter-Claimant:

Brian G. Mulherin, Esq.
Jones, Bell, Abbott, Fleming
& Fitzgerald
Los Angeles, California

CASE INFORMATION

Statement of Claim filed: April 10, 2001

Claimant's Uniform Submission Agreement signed: January 5, 2001

Statement of Answer and Counterclaim filed by Respondent: June 11, 2001

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

CASE SUMMARY

Claimant alleged breach of contract, breach of fiduciary duty, misrepresentation and failure to execute trades in accordance with a margin call. The securities involved were stock in Xcelera, Celeritek, Sensar Corp., Matrix Pham, Ameritrade, E-Trade, and Florida Bank.

Respondent denied the allegations of wrongdoing set forth in the Claimant's Statement of Claim and filed a Counterclaim alleging breach of contract and acts of bad faith.

RELIEF REQUESTED

Claimant requested \$31,511.89 in compensatory damages, \$10,500.00 in punitive damages, and costs, including attorney's fees.

Respondent requested dismissal of the Claimant's Statement of Claim in its entirety, \$4,185.16 in compensatory damages, interest, and costs, including attorney's 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, testimony, and evidence presented at the hearing, the Arbitrator decided in full and final resolution of the issues submitted for determination as follows:

- 1) Claimant's claims are denied in their entirety.
- 2) Counter-Claimant's claims are denied in their entirety.
- 3) The parties shall bear their respective costs, including attorney's fees.
- 4) All other relief requested and not expressly granted is denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

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

Initial claim filing fee	= \$ 175.00
Respondent's Counterclaim	= \$ 400.00

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 that 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	= \$ 800.00
Pre-Hearing Process Fee	= \$ 600.00
Hearing Process Fee	= \$1,000.00
Total Member Fees	= \$2,400.00

Forum Fees and Assessments

The Arbitrator 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 Arbitrator. The following fees are assessed:

One (1) Pre-hearing conference session with the Arbitrator @ \$450.00/session	= \$ 450.00
Pre-hearing conference: September 24, 2002 1 session	
Two (2) Hearing sessions @ \$450.00/session	= \$ 900.00
Hearing: January 17, 2003 2 sessions	
Total Forum Fees	= \$1,350.00

1. The Arbitrator assessed \$675.00 of the forum fees to Claimant Bernadette M. Blixt.
2. The Arbitrator assessed \$675.00 of the forum fees to Respondent TD Waterhouse Investor Services, Inc.

Fee Summary

1. Claimant Bernadette M. Blixt. is charged with the following fees and costs:

Initial Filing Fee	= \$ 175.00
<u>Forum Fees</u>	= \$ 675.00
Total Fees	= \$ 850.00
<u>Less payments</u>	= \$(625.00)
Balance Due NASD Dispute Resolution	= \$ 225.00

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

Counterclaim Filing Fee	= \$ 400.00
Member Fees	= \$2,400.00
<u>Forum Fees</u>	= \$ 675.00
Total Fees	= \$ 3,475.00
<u>Less payments</u>	= \$(2,925.00)
Balance Due NASD Dispute Resolution	= \$ 550.00

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

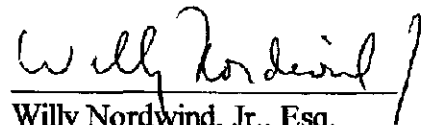
ARBITRATION PANEL

Willy Nordwind, Jr., Esq.

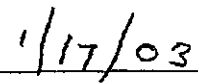
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Public Arbitrator

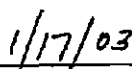
Arbitrator's Signature



Willy Nordwind, Jr., Esq.
Public Arbitrator



Signature Date



Date of Service